3-30-87
Vol. 52 No. 60
Pages 10021-10212

federal register

Monday
March 30, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: March 31; at 9 am.
WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
RESERVATIONS: Beverly Fayson, 202-523-3517

Contents

Federal Register
Vol. 52, No. 60
Monday, March 30, 1987

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 52. No. 60
Monday, March 30, 1987

Presidential Documents

Title 3—

The President

Executive Order 12590 of March 26, 1987

National Drug Policy Board

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 872, 873, 1111, 1112, 1113, 1114, 1202, and 1203 of title 21 of the United States Code, and in order to coordinate the performance of all drug abuse policy functions of the Federal government, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is hereby established the National Drug Policy Board ("the Board").

(b) The Board shall be composed of the following members:

(1) the Attorney General, who shall serve as Chairman;

(2) the Secretary of Health and Human Services, who shall serve as Vice Chairman;

(3) the Secretary of State;

(4) the Secretary of the Treasury;

(5) the Secretary of Defense;

(6) the Secretary of the Interior;

(7) the Secretary of Agriculture;

(8) the Secretary of Labor;

(9) the Secretary of Housing and Urban Development;

(10) the Secretary of Transportation;

(11) the Secretary of Energy;

(12) the Secretary of Education;

(13) the Director of the Office of Management and Budget;

(14) the Assistant to the President for National Security Affairs;

(15) the Director of Central Intelligence;

(16) the Chief of Staff to the Vice President;

(17) the Director of the White House Drug Abuse Policy Office; and

(18) such other members as the President may, from time to time, designate.

Sec. 2. *Functions.* (a) The Board shall facilitate the development and coordination of national drug policy and shall coordinate activities of Executive departments and agencies to reduce the supply and use of illegal drugs, including international activities, enforcement, prevention and education, treatment and rehabilitation, and research relating to illegal drugs.

(b) In furtherance of its responsibilities, the Board shall:

(1) review, evaluate and develop United States Government policy, strategy and resources with respect to illegal drug law enforcement, prevention and education, treatment and rehabilitation, and research efforts, including budgetary priorities and national plans and strategies;

(2) facilitate coordination of efforts of all Executive departments and agencies to halt national and international trafficking of illegal drugs and to reduce drug abuse;

(3) coordinate the collection and evaluation of information necessary to implement United States policy with respect to illegal drug law enforcement and to the reduction of drug abuse; and

(4) provide policy guidance to the agencies and facilitate resolution of differences in this area concerning interagency activities and other matters affecting two or more agencies.

(c) In order to help coordinate the activities of Executive departments and agencies with responsibility for drug law enforcement and drug abuse reduction, and to supervise implementation of the determinations of the Board, the Chairman shall:

(1) advise the Board in matters concerning its responsibilities;

(2) make recommendations to the Board for the coordination of drug enforcement and drug abuse reduction activities;

(3) correlate and evaluate intelligence and other information to support the activities of the Board;

(4) act as primary advisor to the President and the Congress on national and international programs and policies and the implementation of those policies; and

(5) perform such other duties as the President may direct.

(d) The Board shall carry out all duties and responsibilities of the National Drug Enforcement Policy Board, as set forth in Chapter XIII (The National Narcotics Act) of Title II of Public Law 98–473.

(e) Nothing in this Order shall be deemed to affect the authorities or responsibilities of the Office of Management and Budget, or any Office or official thereof.

Sec. 3. *Coordinating Groups.* The Board shall establish a Drug Enforcement Coordinating Group and a Drug Abuse Prevention and Health Coordinating Group. The membership and chairman of each Coordinating Group shall be designated by the Chairman of the Board.

Sec. 4. *Conforming Amendments.* (a) Section 1 of Executive Order No. 12368 is amended to provide as follows:

"The Office of Policy Development has been assigned to assist the President and the National Drug Policy Board in the performance of the drug policy functions contained in Section 201 of Title II of the Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended (21 U.S.C. 1111). Within the Office of Policy Development, the Director of the Drug Abuse Policy Office shall be primarily responsible for assisting the President and the Board in the performance of those functions."

(b) Section 2 of Executive Order No. 12368 is amended by deleting "Director of the Drug Abuse Policy Office" and inserting in lieu thereof "National Drug Policy Board" and by deleting "he" and inserting in lieu thereof "the National Drug Policy Board."

Ronald Reagan

THE WHITE HOUSE,
March 26, 1987.

[FR Doc. 87-7072
Filed 3-27-87; 10:31 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 60
Monday, March 30, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction-in-Force

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final transfer of function regulations that revise certain procedures agencies use to identify employees with a transferring function in situations when, after the function is transferred from one competitive area to another, the remaining functions in the losing competitive area are abolished. These changes will assist agencies in properly implementing the transfer of function provisions during "sunset" or comparable situations.

EFFECTIVE DATE: These regulations become effective on April 29, 1987.

FOR FURTHER INFORMATION CONTACT: Donald L. Holum, (202) 632-6817.

SUPPLEMENTARY INFORMATION:

Background

The transfer of function provisions found in Subpart C of Part 351 of this title are derived from section 12 of the Veterans' Preference Act of 1944, as presently codified in 5 U.S.C. 3503. Section 351.203 defines a "transfer of function" as the transfer of the performance of a continuing function from one competitive area to one or more other competitive areas (except when the transferring function is virtually identical to functions performed in the gaining competitive area(s) at the time of transfer), or the movement of the competitive area in which the function is performed to another local commuting area. OPM's regulations in Subpart C of Part 351 of this title explain when the transfer of function provisions are applicable, when employees have the right to transfer with a function, and how agencies identify employees with a transferring function. For further information on the transfer of function regulations, refer to Subpchapter 10 of Federal Personnel Manual (FPM) Chapter 351.

On June 11, 1986, OPM published proposed regulations in the **Federal Register** (51 FR 21177) that would change certain identification procedures applicable to employees who spend less than half their work time on a transferring function and whose grade is not controlled by the duties of the function. The regulations also proposed to clarify longstanding OPM policy on employees who decline to transfer with their function, or who wish to volunteer for transfer.

Discussion of Comments

OPM requested interested parties to submit comments on the proposed transfer of function regulations through August 11, 1986. We received twelve comments concerning the proposed regulations: ten from agencies, one from a union, and one from an individual. Several comments dealt with more than one issue.

Six agencies and the union concurred with the proposed changes as published.

One agency suggested that OPM modify the transfer of function regulations to provide that the losing competitive area must identify only the number of positions needed to perform the function in the gaining competitive area. We believe that this suggestion to limit the number of positions identified for transfer based on the requirements of the gaining competitive area would conflict with 5 U.S.C. 3503. Therefore, we did not adopt the suggestion.

Two agencies suggested that OPM revise proposed § 351.302(d) to provide that the agency "may" rather than "must" use adverse action procedures to separate employees who choose not to transfer with their function. Both agencies believed that the proposed § 351.302(d) would establish a policy requiring agencies to always separate employees who decline to transfer. This was not our intention; instead, we simply wanted to clarify that an agency would use adverse action rather than reduction-in-force procedures to separate an employee who chooses not to transfer with his or her function unless the losing competitive area, at its discretion, permits the employee to compete in a concurrent reduction-in-force. In the final regulations we have revised § 351.302(d) as the two agencies suggested to explain that the agency ordinarily uses adverse action rather than reduction-in-force procedures if, in fact, it decides to separate the employee.

One agency commented that § 351.303(c) provides that a competing employee is identified under Identification Method One if "the employee performs the function during all or a *major part* of his or her work time," while § 351.303(d) provides that "Identification Method Two is applicable to employees who perform the function *during less than half* of their work time and are otherwise not covered by Method One." (Italicized for emphasis.) For consistency, the agency suggests that both references be based upon 50 percent of the employee's work time. Although the language in both §§ 351.303(c)(1) and 351.303(d) is longstanding and has never been an issue, we agree with the agency's suggestion that the transfer of function regulations should be consistent. To adopt the agency's suggestion, we have revised the final § 351.303(c)(1) to provide that a competing employee is identified under Identification Method One if "The employee performs the function during at least half of his or her work time."

One agency suggested that § 351.303(d) be revised to provide for specific timeframes that agencies would follow in determining whether to identify competing employees under Identification Method Two in the actual or the inverse order of their retention standing. For reference, OPM's longstanding transfer of function procedures required agencies to identify employees with a transferring function under Method Two in the inverse order of their retention standing. This procedure permitted employees with higher retention standing to remain in their present competitive area, which is generally a preferable alternative to transfer. However, if the remaining functions in the losing competitive area are abolished after the function is tranferred (as in a "sunset" or comparable situation), the longstanding Method Two procedure would identify those employees with the lowest rather

than the highest standing for transfer to continuing positions in the gaining competitive area. In this situation the agency would be required to request a variation from OPM to identify employees under Method Two in the actual order of their retention standing. Our revised § 351.303(d) eliminates the need for OPM variations on a case-by-case basis by giving this authority directly to each agency. Specifically, the revised § 351.303(d) adds that if the inverse retention standing procedures would result in the separation or demotion by reduction-in-force at the losing competitive area of an employee with higher retention standing who is also identified with the function under Method Two, the losing competitive area identifies competing employees for transfer in the actual order of their retention standing. Based upon our experience with requests from agencies for Method Two variations, we do not believe that it would be feasible to set forth more specific instructions in § 351.303(d). Therefore, we did not adopt this suggestion.

One agency suggested that OPM provide guidance on Identification Method Two explaining how under § 351.303(d) agencies actually determine whether an employee preforms a transferring function during less than half of his or her work time. Although the agency's suggestion focused upon the procedures in § 351.303(d) covering Method Two, it is also directed at § 351.303(c)(1), which provides that Identification Method One is applicable to a competing employee who performs the functions during at least half of his or her work time. Agencies generally rely upon official position descriptions in identifying positions, and ultimately employees, for transfer with a continuing function. However, we agree that at this time our FPM guidance should contain material explaining how agencies consider actual work time in making a transfer of function determination. Therefore, we plan to adopt the agency's suggestion and include guidance on employee work time when we incorporate these final transfer of function regulations into Subchapter 10 of FPM Chapter 351.

One agency and the individual suggested changes to proposed § 351.303(e)(2), which provides that if the agency asks for volunteers to transfer with the function and the total number of volunteers exceeds the number of employees needed to perform the function in the gaining competitive area, the losing competitive area may give preference to the volunteers with the highest retention standing. For reference, § 351.303(e)(1) provides that the losing competitive area may permit these other employees to volunteer only if no competing employee who is properly identified for transfer is separated or demoted because another employee volunteered for transfer to the gaining competitive area. The individual commenter suggested that § 351.303(e)(2) be revised to provide that the losing competitive area "must" give preference to employees with the highest retention standing; the commenter believes that this would ensure consistency in deciding which volunteer is transferred. We did not adopt this suggestion because the intention of § 351.303(e)(2) is to give the losing competitive area discretion in selecting volunteers to transfer with a function; retention standing is simply one optional procedure to limit consideration of volunteers for transfer. Consistent with the importance of flexibility in identifying volunteers for transfer, the agency suggested that we revise § 351.303(e)(2) to provide that "the losing competitive area may give preference to the volunteers with the highest retention standing *or make selections based on other appropriate criteria.*" (Added language italicized.) We concur that this language would be useful and have adopted the agency's suggestion in the final § 351.303(e)(2).

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies.

List of Subjects in 5 CFR Part 351

Administrative practice and procedures, Government employees.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM amends 5 CFR Part 351 as follows:

PART 351—REDUCTION IN FORCE

1. The authority citation for Part 351 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503; § 351.1005 also issued under 5 U.S.C. 3315.

2. Subpart C of Part 351 is revised to read as follows:

Subpart C—Transfer of Function

Sec.
351.301 Applicability.
351.302 Transfer of employees.
351.303 Identification of positions with a transferring function.

Subpart C—Transfer of Function

§ 351.301 Applicability.

This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, Executive order, reorganization plan, or other authority.

§ 351.302 Transfer of employees.

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR Part 752 if it chooses to separate an employee who declines to transfer with his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

§ 351.303 Identification of positions with a transferring function.

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during at least half of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing, or make selections based on other appropriate criteria.

[FR Doc. 87-6898 Filed 3-27-87; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Part 831

Retirement—Survivor Benefits

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing regulations to implement section 502 of the Federal Employees Retirement System Technical Corrections Act of 1986 (FERSTCA). These regulations will give survivors of employees or Members who die in service without waiving military retired pay for civil service retirement purposes credit for the military service in the computation of their survivor benefits unless they elect to have the service excluded.

DATES: Interim regulations effective March 30, 1987; comments must be received on or before May 29, 1987.

ADDRESS: Send written comments to Reginald M. Jones, Jr., Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or delivery to OPM, Room 4351, 1900 E Street, NW., Washington, DC

Send applications for military service credit for employees and Members who die in service prior to April 25, 1987, to Pub. L. 99-556 Coordinator, Employee Service and Records Center, Boyers, PA 16017.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 632-4682.

SUPPLEMENTARY INFORMATION: On October 27, 1986, section 502 of Pub. L. 99-556 amended section 8332(c) of title 5 United States Code by adding a new paragraph (3). This provision gives the survivor of an employee or Member credit for military service that would normally have been excluded from the computation of the survivor annuity because the employee or Member did not waive his or her military retired pay prior to death. (Ordinarily, an individual must waive military retired pay for civil service retirement purposes to receive credit for a period of military service in the computation of his or her annuity. However, there are exceptions when the retired pay was awarded based on a service-connected disability incurred in combat with an enemy of the United States or caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by section 301 of title 38 of the United States Code; or the retired pay was awarded under chapter 67 of title 10, United States Code.)

Pub. L. 99-556 now requires that the survivor be given credit for such military service unless he or she elects not to be covered by the provisions of 5 U.S.C. 8332(c)(3) (see § 831.301(d)(1)). Under § 831.301(d)(2) of these interim regulations, if the military service is included in the computation of the survivor annuity, OPM must reduce the annuity "by the amount of any survivor's benefits payable to a survivor (other than a child) under a retirement system for members of the uniformed services." For purposes of these regulations, "survivors benefits under a retirement system for members of the uniformed services" means survivor benefits payable based on the decedent's retired or retainer pay.

OPM will include credit for military service in the computation of a survivor's annuity unless the survivor submits a written election not to be covered by section 8332(c)(3). The election must be postmarked within the period ending 30 calendar days after the date of the first regular monthly annuity payment. A surviving spouse and a former spouse may make contrary elections in any individual case.

Under sections 553(b)(3)(B) and 553(d)(3) of title 5, United States Code, I find that good cause exists for waiving the general notice of proposed rulemaking and for making these amendments effective in less than 30 days. The provisions (section 502 of Pub. L. 99-556) pertaining to employees or Members who die before April 25, 1987, require that the survivor apply to OPM for the additional service credit and the commencing date of the increased benefit, if any, is dependent upon the date of application. It is necessary to make these amendments effective immediately to avoid harming these applicants.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will only affect retirement payments to spouses and former spouses of Government employees or Members who die in service.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income tax, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

PART 831—RETIREMENT

Accordingly, OPM is amending 5 CFR Part 831 as follows:

Subpart C—Credit for Service

1. The authority citation for Subpart C of Part 831 continues to read as follows:

Authority: 5 U.S.C. 8347.

2. In § 831.301, a new paragraph (d) is added to read as follows:

* * * * *

§ 831.301 Military service.

* * * * *

(d) *Widow(er)s and former spouses entitled to survivor benefits based on the service of employees or Members who die in service*—(1) *Military service is included unless the survivor elects otherwise.* Unless a widow(er) or former spouse of an employee or Member who dies before being separated from service files a written election to the contrary, his or her survivor annuity will include credit for a period of military service that would ordinarily be excluded from the computation of the employee's or Member's annuity under 5 U.S.C. 8332(c)(2).

(2) *Reduction by the amount of survivor benefits payable based on the military service.* (i) In paragraph (d)(2)(ii) of this section, "survivor benefits under a retirement system for members of the uniform services" means survivor benefits attributable to a period of military service and payable to an adult applicant for CSRS survivor benefits based on the decedent's retired or retainer pay.

(ii) OPM will obtain information on the amount of any survivor benefits under a retirement system for members of the uniformed services payable (per month) to an applicant for CSRS survivor or former spouse benefits at the time of the employee's or Member's death. OPM will make a one time adjustment in the applicant's monthly CSRS benefits payable at the time of the employee's or Member's death, reducing the CSRS benefits by the amount of the applicant's monthly survivor benefits under a retirement system for members of the uniformed services payable at the time of the employee's or Member's death, if any. We will not make subsequent adjustments for increases or decreases in survivor benefits payable under the retirement system for members of the uniformed services.

(3) *Survivors of employees or Members who die on or after April 25, 1987—election not to be included.* OPM will accept a written election from a widow(er) or former spouse not to be covered by § 831.301(d) provided it is postmarked within the period ending 30 calendar days after the date of the first regular monthly payment.

(4) *Survivors of employees or Members who die before April 25, 1987—application of OPM for credit.* Survivors of employees or Members who died before April 25, 1987, must apply to OPM in writing to have credit for military service included in the survivor annuity computation. If the survivor benefits are increased by including credit for the military service, the increase in benefits will be effective on the first of the month following the 60th calendar day after the date the written application for benefits is received in OPM.

[FR Doc. 87-6897 Filed 3-27-87; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida Handling Requirements for Pink Seedless Grapefruit

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule relaxes for the remainder of the 1986-87 season the minimum size requirement for Florida and imported pink seedless grapefruit from size 48 (3 9/16 inches in diameter) to size 56 (3 5/16 inches in diameter). The Florida grapefruit minimum size requirement applies to grapefruit grown in the production area in Florida shipped to the fresh domestic market (the continental United States, Canada, or Mexico). The relaxation of the minimum size requirement for Florida grapefruit recognizes the size composition of the remaining available grapefruit supply and the current and prospective demand conditions. The import regulation is applicable to pink seedless grapefruit imported into the United States, and is required under § 8e of the Act.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under the criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601 through 674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have small entity orientation and compatibility.

There are an estimated 100 handlers of Florida oranges, grapefruit, tangerines, and tangelos subject to regulation under the marketing order for these citrus fruits grown in Florida, and an estimated 26 importers who import grapefruit into the United States. In addition, there are approximately 15,000 producers of these citrus fruits in Florida. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000, and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers, importers, and producers may be classified as small entities.

Pursuant to the requirements set forth in the RFA, the Administrator of the Agricultural Marketing Service has considered the economic impact on small entities. This final rule relaxes for the remainder of this season the minimum size requirement for Florida pink seedless grapefruit shipped from the production area to domestic markets, and for pink seedless grapefruit imported into the United States. The

relaxation of the minimum size requirement for domestic shipments of Florida pink seedless grapefruit will help ensure that minimum size requirements do no unduly restrict the available supply of such fruit, and should make additional supplies of fruit available to consumers. The relaxation of the current size requirement from size 48 to size 56 is only for the remainder of the 1986–87 season. The resumption of the 48 size requirement for 1987–88 season shipments of pink seedless grapefruit commencing August 24, 1987, is based upon the maturity, size, quality and flavor characteristics of such grapefruit early in the shipping season.

Some Florida grapefruit shipments are exempt from the minimum grade and size requirements effective under the marketing order. Handlers may ship up to 15 standard packed cartons (12 bushels) of fruit per day under a minimum quantity exemption provision. Also, handlers may ship up to 2 standard packed cartons of fruit per day in gift packages which are individually addressed and not for resale under the current exemption provisions. Fruit shipped for animal feed is also exempt under specific conditions. In addition, fruit shipped to commercial processors for conversion into canned or frozen products or into a beverage base are not subject to the handling requirements.

The Department's view is that the impact of the relaxed handling requirements upon producers, handlers, and importers would be beneficial, and that this action should improve returns to grapefruit producers. The application of minimum grade and size requirements to Florida oranges, grapefruit, tangerines, and tangelos, and to imported grapefruit over the past several years have helped to assure that only fruit of acceptable quality and size are shipped to fresh markets. Although compliance with the minimum grade and size requirements effective under this order affects costs to handlers and importers, these costs would be significantly offset when compared to the potential benefits of assuring the trade and consumers that the fruit is of acceptable quality and size.

This final rule is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Act. This action was recommended by the Citrus Administrative Committee at its February 24, 1987 meeting. The committee works with USDA in administering the marketing agreement and order program.

The handling regulation for Florida citrus fruit covered under this market order, including pink seedless grapefruit, is specified in § 905.306 Florida Orange, Grapefruit, Tangerine, and Tangelo Regulation 6 (46 FR 60170, December 8, 1981). This regulation was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. Section 905.306(a) provides that no handler shall ship between the production area and any point outside that area in the continental United States, Canada, or Mexico, specified varieties of oranges, grapefruit, tangerines and tangelos unless such varieties meet specified minimum grade and size requirements.

The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The final rule permits fresh domestic market shipment of size 56 (3$^{5}/_{16}$ inches in diameter) pink seedless grapefruit for the remainder of 1986–87 season on or after the effective date of this rule. Shipment of Florida pink seedless grapefruit smaller than size 48 (3$^{9}/_{16}$ inches in diameter) to such markets has not been permitted this season since August 18, 1986, so that such fruit would be left on the trees longer to mature and develop acceptable flavor and size. The committee recommended that the relaxation of the minimum size requirement from size 48 to size 56 be effective for the period March 23, 1987, through August 23, 1987. This action reflects the committee's and the Department's appraisal of the need to relax the minimum size requirement for such period, and recognizes the current supply and demand for pink seedless grapefruit.

Total Florida pink seedless grapefruit production is expected to increase over last season's level by 9 percent and fresh shipments, which are ahead of last season's pace, are also expected to increase.

Section 8e of the Act (7 U.S.C. 608e–1 provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Since this action relaxes the minimum size requirement for domestically produced pink seedless grapefruit, this change would also be applicable to imported pink seedless grapefruit.

Grapefruit import requirements are specified in § 944.106 (7 CFR Part 944) which requires that the various varieties of imported grapefruit meet the same grade and size requirements as those specified for Florida grapefruit in Table 1 of paragraph (a) in § 905.306. An exemption provision in the grapefruit import regulation permits persons to import up to 10 standard packed 4/5 bushel cartons exempt from the import requirements.

After consideration of the information and recommendation submitted by the committee, and other available information, it is found that amendment of § 905.306 will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and to engage in public rulemaking with respect to this action, and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) This action relaxes restrictions on the handling of Florida pink seedless grapefruit by permitting of grapefruit of a smaller size to be shipped to fresh markets, and this action should become effective upon publication in the **Federal Register**; (2) handlers of Florida pink seedless grapefruit are aware of this action which was recommended by the committee at a public meeting, and they will need no additional time to comply with the requirements; (3) shipment of the 1986–87 season Florida grapefruit crop is currently underway; and (4) the grapefruit import requirements are mandatory under section 8e of the Act.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

For the reasons set forth in the preamble, Part 905 is amended as follows:

PART 905—[AMENDED]

1. The authority citation for 7 CFR Part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The provisions of § 905.306 (46 FR 60170, December 8, 1981) are amended by revising the following entry in Table I of paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amendment 43

(a) * * *

TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
* * * March 30, 1987			
Grapefruit: Seedless, pink	03/31/87–08/23/87	Improved No. 2 (External) U.S. No. 1 (Internal)	3⅜
	On & after 08/24/87	Improved No. 2 (External) U.S. No. 1 (Internal)	3⅜

* * * * *

Dated: March 24, 1987.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–6944 Filed 3–27–87; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 303 and 381

[Docket No. 87–002I]

Experimentation With Procedures for Determining the Intensity of Inspection Coverage in Processing Establishments; Waivers of Provisions of the Regulations

AGENCY: Food Safety and Inspection Service (FSIS), USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: The Administrator, FSIS is initiating a period of experimentation as the first step in changing the Federal inspection system in establishments that prepare meat food products and/or process poultry products beyond slaughter and evisceration to a "discretionary inspection" (DI) system; that is, one in which the frequency and the manner of government inspection are based on considerations relevant to effective regulation of such products and protection of the public health and welfare, in accord with recent amendments to the Federal Meat Inspection Act (FMIA).

The object of this experimentation is to determine whether and, if so, to what extent the intensity of Federal inspection of meat and poultry products exceeds that which is necessary. During the period of experimentation, the level of Federal inspection may be reduced at some official establishments below the level required by current law. To the extent these reductions conflict with current provisions of the regulations, the Administrator plans to waive such provisions for the period of experimentation.

FSIS will consider relevant data, views, and arguments that are submitted during the next 30 days, and it will review the comments submitted and publish a final rule, indicating what, if any, changes it is making to this interim rule. In any event, during the period of experimentation, guidelines developed for use in making the determinations called for by these provisions may be modified if found to be infeasible or to improve effectiveness in assessing establishments or designing inspection coverage.

After this experimental step is completed, FSIS will propose new regulations that will fully implement its DI system. Interested members of the public will have an opportunity to comment on the design of the proposed DI system and specific proposed regulatory changes at that time.

DATES: Comments must be received on or before April 29, 1987. Effective March 30, 1987.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on the amendments to the poultry products inspection regulations to: Judith A. Segal, Director, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6525. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Judith A. Segal, (202) 447–6525.

SUPPLEMENTARY INFORMATION:

Executive Order 12201 and Effect on Small Entities

The Administrator, FSIS, has made an initial determination that this interim final rule is not a major rule under Executive Order 12291. It is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Administrator also has determined that this action will not have a significant economic impact on a substantial number of small entities, in accordance with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*).

The basis for these determinations includes the fact that waiver of certain provisions of the regulations and other aspects of experimentation described herein will affect only a limited number of processing establishments subject to inspection under the FMIA and/or the PPIA for a limited period. Any economic benefits which might indirectly result from inclusion in pilot testing (e.g., reduction in payments for inspection program employees working overtime) will be relatively small and affect only a portion of the establishments in which pilot tests are conducted, and selecting all establishments within a designated site that are found to satisfy the establishment performance criteria will further reduce the opportunity for any adverse effect on competition. Both the number of establishments selected and the length of time during which they are included in a pilot test of DI procedures will not extend beyond that which is needed to test the program variables under consideration in establishments with different characteristics. While at this time FSIS can only estimate the number of establishments that could be included in such pilot tests, since it cannot predict the results of evaluations of establishment performance, the Agency plans to select approximately 15 establishments initially and not more than about 200 in all, or approximately 3 percent of the federally inspected establishments that will be subject to the fully implemented DI system. Moveover, the Agency plans to conduct pilot testing in establishments with a variety of characteristics, such as size and volume of product manufactured,

with the number of establishments increasing as the evaluation proceeds and with the conditions and methods of inspection coverage comparable in establishments as to which similar considerations apply. Finally, FSIS expects the duration of pilot tests in most establishments to vary between 3 and 6 months and that it will terminate the experimentation period within about 1 year. When pilot tests are ended, the Agency will return to pre-experimentation conditions and methods of inspection coverage until the DI system is fully implemented and, at that time, all plants (including those previously selected for pilot testing) will be evaluated.

Comments

Interested persons are invited to submit comments concerning this interim final rule. Such comments must be sent in duplicate to the FSIS Hearing Clerk. They should bear a reference to the docket number located in the heading of this document. Any person desiring an opportunity for oral presentation of views on the amendments to the poultry products inspection regulations must make such request to Dr. Segal so that arrangements may be made for such views to be presented. A transcript will be made of all views presented orally. All written and oral submissions made pursuant to this notice will be made available for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday, in the Policy Office, Room 3168, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC.

Background

The Secretary of Agriculture's duties include implementation of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) to prevent the preparation or processing and distribution of meat, meat food products, and poultry products which are adulterated or misbranded or not properly marked, labeled, and packaged (21 U.S.C. 453 (g) and (h), 457, 458, 601 (m) and (n), 607, and 610). Responsibility for exercising the functions of the Secretary contained in the FMIA and PPIA has been delegated to the Administrator, FSIS (7 CFR 2.17(g) and 2.55(a)(2)). Among those functions are administration of the inspection requirements for meat food and poultry products and sanitation practices in establishments preparing or processing such products for commerce or otherwise subject to inspection under the FMIA or PPIA (21 U.S.C. 455, 456, 605, 606, and 608) and the issuance of rules and regulations executing provisions of these Acts (21 U.S.C. 463(b) and 621).

The Congress of the United States recently amended the inspection requirements for meat food products in section 6 of the FMIA (21 U.S.C. 606). Pursuant to the Processed Products Inspection Improvement Act of 1986, Title IV of the Futures Trading Act of 1986 (FTA) (Pub. L. 99-641), rather than requiring the Secretary to cause inspectors appointed for that purpose to make "an examination and inspection of all meat food products prepared for commerce in any slaughtering, meat-canning, salting, packing, rendering, or similar establishment," such examination and inspection is to be:

> Conducted with such frequency and in such manner as the Secretary considers necessary, as provided in rules and regulations issued by the Secretary, taking into account such factors as the Secretary considers to be appropriate. . . . [FTA, section 403(a)];

Three such factors are specified in the statute: the nature and frequency of processing operations at an establishment, the adequacy and reliability of the processing controls and sanitary procedures at an establishment, and the history of compliance with inspection requirements in effect under the FMIA by the operator of an establishment or anyone responsibly connected with the business (i.e., any partner, officer, director, holder, or owner of 10 per centum or more of its voting stock or employee in a managerial or executive capacity) that operates that establishment.

By so amending the FMIA, Congress has authorized the Department, for a 6-year period,* to base the frequency with which and the manner in which meat food products are examined and inspected by program employees on considerations relevant to the effective regulation of meat food products and the protection of the public health and welfare. The legislation also reflects Congressional recognition that full implementation of a new system of government inspection of post-slaughter processing operations will take time. Title IV and the amendments made thereby became effective on the date of enactment (November 10, 1986), except that sections 6, 9, and 21 of the FMIA (21 U.S.C. 606, 609, and 621), as in effect immediately before that date, "apply with respect to establishments until the Secretary . . . first issues rules and regulations to implement the amendments made by section 403(a)" (FTA, section 408). This rulemaking initiates implementation of those amendments; however, as indicated below, it is only the first step in process intended to assure an orderly transition to the "discretionary inspection" (DI) system mandated by the recent amendments to the FMIA.

This rulemaking also initiates changes that will result in the institution of a DI system for operations processing products from poultry carcasses that have passed post mortem inspection. The PPIA authorizes the Department to vary the frequency and the manner of government inspection in establishments conducting post-slaughter and evisceration processing of poultry products based on effective regulation and public protection considerations. In particular, section 6(b) (21 U.S.C. 455(b)) requires the Secretary to cause government inspectors to make "post mortem inspection of the carcass of each bird processed, and at any time such quarantine, segregation and reinspection as he deems necessary of poultry and poultry products capable of use as human food in each official establishment processing such poultry or poultry products for commerce or otherwise subject to inspection. . . ."

The Administrator of FSIS now believes that the frequency and manner of reinspection by program employees of poultry products made from poultry previously slaughtered and eviscerated and found to be not adulterated that is "deem[ed] necessary" should be varied, taking into account the same factors as those considered appropriate under the amended FMIA. To date, however, the rules and regulations and other aspects of inspection coverage have been basically comparable to those prescribed pursuant to the narrower pre-amendment authority in the FMIA. Therefore, exercising the authority to implement a DI system of inspection presents orderly transition concerns under the PPIA as well.

The Department supported the recent amendments to the FMIA, as well as administering the PPIA to institute the same approach to the inspection of comparable processing operations, because it believes that the efficiency and effectiveness of the meat and poultry inspection program in utilizing available resources to maximize the level of compliance with regulatory requirements, and thus achievement of

*Not later than 6 years after the date of enactment, Congress is to evaluate the operation and effects of the amendments made by section 403 of the FTA for the purpose of determining whether to extend or modify the operation of such amendments and enact such legislation as may be necessary to efficiently and effectively carry out the FMIA (FTA, section 407).

the purposes of the FMIA and PPIA (see 21 U.S.C. 451 and 602 and FTA, section 402), can be improved by adjusting the frequency and the manner of government inspection. However, before modifing the inspection system as a whole and fully implementing a DI system, rules regarding the frequency and the manner of government inspection should be tested in order to assess their adequacy and appropriateness and thereby protect the integrity and effectiveness of the inspection program.

In particular, although it appears that the intensity of inspection coverage in some processing establishments exceeds that which should be considered or deemed necessary under the FMIA, as amended (21 U.S.C. 606), or the PPIA (21 U.S.C. 455), the Administrator of FSIS has concluded that procedures for determining whether and, if so, to what extent this is the case and for designing the conditions and methods of inspection coverage in such establishments should be tested in a small-scale, experimental setting in order to obtain sufficient information on which to base final amendments to various portions of the Federal meat inspection and the poultry products inspection regulations. Therefore, the first rules and regulations to be issued in implementing the amendments made by section 403(a) of the FTA to section 6 of the FMIA (21 U.S.C. 606) and instituting a comparable DI system under the PPIA consist of provisions for conducting pilot tests of such DI system in establishments subject to inspection under the FMIA (9 CFR 303.2) or the PPIA (9 CFR 381.3(c) through (e)).

These provisions in the initial regulations include the factors that appear appropriate for consideration in assessing the performance of an establishment to determine whether the intensity of inspection coverage can be reduced while continuing to assure effective regulation of products and protection of the public health and welfare (9 CFR 303.2(b)(1) and 381.3(d)(1)), as well as the factors that appear appropriate for consideration in assessing the characteristics of an establishment on which to base the level of Federal inspection and other conditions and methods of government inspection during such experimentation (9 CFR 303.2(b)(2) and 381.3(d)(2)). For purposes of both meat food product and poultry product inspection, criteria are specified to take into account the factors included in section 6(a)(2) of the amended FMIA (21 U.S.C. 606(a)(2); section 403(a) of the FTA): nature and frequency of processing operations (9 CFR 303.2(b)(2) and 381.3(d)(2)), adequacy and reliability of processing controls and sanitary procedures (9 CFR 303.2(b)(1) (ii) and (iii) and 381.3(d)(1) (ii) and (iii)), and history of compliance with inspection requirements (9 CFR 303.2(b)(1)(i) and 381.3(d)(1)(i)).

Thus, the experimentation period is expected to provide information on, among other things, the adequacy of such criteria for evaluating the performance of all establishments conducting post-slaughter preparation of meat food products and/or post-slaughter and evisceration processing of poultry products. FSIS will use the information obtained to decide whether the criteria set forth in these provisions should be further refined or supplemented before their application to all such processing establishments is proposed as part of the rulemaking in which a proposal that would amend the Federal meat inspection regulations and the poultry products inspection regulations to include the new and revised provisions needed for full implementation of a DI system will be considered. FSIS currently anticipates completion of that rulemaking in early 1988. The final rule so amending the regulations also will rescind the provisions for experimentation with DI procedures set forth herein, unless such experimentation period has been terminated earlier.

FSIS plans to select establishments for inclusion in a pilot test from those the Administrator identifies for review (9 CFR 303.2(a) and 381.3(c)). Initially, a small group of establishments will be so identified, and such establishments will be ones in which there is reason to believe that the current intensity of inspection coverage exceeds that which should be considered or deemed necessary under the FMIA or PPIA. As testing proceeds, the Administrator intends to identify additional establishments to the extent appropriate in view of findings to date. FSIS expects that the number of establishments selected for pilot tests may increase from approximately 15 to as many as 200 as groups of establishments in new, limited geographical sites are phased in over the course of the experimentation period. Such sites will be designated on the basis of their suitability for generating information to satisfy evaluation needs. The length of time during which establishments are included in a pilot test will vary depending on the testing involved and is expected to be from 3 to 6 months in most establishments.

The performance of establishments so identified will be evaluated, and such an establishment may be selected for inclusion in the pilot testing of procedures for reducing the intensity of inspection coverage if, and only if, this evaluation (1) reveals, in records compiled no earlier than 10 years before, no documented instances of substantial and recent noncompliance with applicable regulatory requirements and (2) evidences the competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements (9 CFR 303.2(c)(1) and 381.3(e)(1)). The "substantial and recent" criterion is intended to assure that in assessing compliance history (9 CFR 303.2(b)(1)(i) and 381.3(d)(1)(i)), both the nature and frequency of noncompliance with process, environment, and/or product requirements are taken into account for an appropriate length of time. Thus, noncompliance is to be regarded as substantial when, for example, it involves the preparation of adulterated product that could pose a serious public health threat if distributed to consumers or recurring failures that could be considered indicative of a lack of regard for the public health or welfare; and, within the 10-year time limit on record documentation, the more substantial the violation, the longer it is to be regarded as sufficiently recent for consideration. The second performance evaluation criterion reflects the assessment of both management knowledge of appropriate manufacturing practices and applicable regulatory requirements, demonstrated ability to apply that knowledge in a timely and consistent manner, and commitment to correcting deficiencies noted by inspection program employees and otherwise assuring compliance with applicable regulatory requirements (9 CFR 303.2(b)(1)(ii) and 381.3(d)(1)(ii)) and the procedures used to control the production process, environment, and resulting product in order to assure and monitor compliance with requirements of the FMIA or PPIA and rules and regulations thereunder (9 CFR 303.2(b)(1)(iii) and 381.3(d)(1)(iii)). FSIS believes that by applying these criteria, its performance evaluation will achieve the objective of only including an establishment in pilot testing if there are adequate indications that the probability of future noncompliance at such establishment is low.

In any establishment included in such a pilot test, during experimentation the conditions and methods of inspection coverage of operations other than the slaughter of livestock or the slaughter and evisceration of poultry, including the frequency of government inspection, are to be determined by the inspection

program based on (1) an evaluation of the characteristics of the particular establishment, (2) the significance of potential health consequences of noncompliance, and (3) the availability of meat and poultry inspection program employees (referred to as "Program" and "Inspection Service" employees in the Federal meat inspection and the poultry products inspection regulations, respectively) (9 CFR 303.2(c)(2) and 381.3(e)(2)). Drawing upon its experience in regulating a broad range of establishments with differing characteristics and allocating inspection program resources, FSIS has developed tentative guidelines for use in making these determinations during pilot testing. Thus, for example, in assessing processing operation complexity (9 CFR 303.2(b)(2)(i) and 381.3(d)(2)(i)), FSIS will be categorizing operations as involving product preparation or processing that is "simple", "medium", or "complex" by applying Directive 1030.2 (Documentation of Processing and Combination Assignments, 4/22/85, which is available for public inspection and copying in the Policy Office (see "**ADDRESSES**")). FSIS also plans to utilize a three category approach in assessing certain other establishment characteristics (9 CFR 303.2(b)(2) (iii), (iv), and (vi) and 381.3(d)(2) (iii), (iv), and (vi)): production volume (highest total product volume during any quarter within the preceding year as less than 60,000; 60,000 to 1,000,000; or more than 1,000,000 pounds), establishment size (less than 12,000; 12,000 to 80,000; or more than 80,000 square feet), and the scope of any livestock slaughter or poultry slaughter and evisceration operations (none, part time, or full time) also being conducted (but to which the DI system will not apply) at an establishment which makes meat food and/or poultry products that are processed further (i.e., a "combination" establishment).

The Federal meat inspection regulations (9 CFR Chapter III; Subchapter A) and the poultry products inspection regulations (9 CFR Part 381) will continue to apply to establishments in which FSIS is pilot testing except to the extent that the frequency of Federal inspection or other conditions and methods of inspection coverage determined to be appropriate for the period of experimentation are identified as conflicting with provisions of the regulations. To that extent, the Administrator plans to waive such provisions for the period of experimentation (9 CFR 303.2(c)(2) and 381.3(e)(2)). Such waivers will permit the testing of new procedures that are expected to facilitate definite improvements and will reflect a determination that prescribing alternative conditions and methods of inspection coverage is not contrary to statutory purposes or provisions. They are, therefore, consistent with Agency policy as to when the temporary suspension of provisions of the regulations comports with its responsibilities in administering the FMIA.

The Administrator believes that the Federal meat inspection regulations should address the waiver for limited periods of provisions of those regulations to provide for situations in which alternative courses of action are appropriate and do not conflict with either the purposes or the provisions of the statute. In particular, the Administrator has determined that, despite potential or actual conflicts with provisions of the regulations, such alternative courses of action should be pursued in administering the FMIA in order to permit: (1) Appropriate and necessary action in the event of a public health emergency and (2) experimentation so that new procedures, equipment, and/or processing techniques may be tested to facilitate definite improvements. In both of these classes of cases, the waiver decision reflects a judgment that certain provisions of the regulations as applied in specific situations should be temporarily suspended in order to achieve the purposes of the FMIA and that the alternative course of action pursued during such a limited period is not inconsistent with FMIA provisions. Among other things, FSIS may, as in the instant case, need to obtain additional information before it can assess the nature or scope of any amendments to be proposed or can provide sufficient description of the subjects and issues involved to give interested persons a meaningful opportunity to participate in rulemaking.

The inclusion of such a rule in the Federal meat inspection regulations (9 CFR 303.1(g)) specifies Agency policy for carrying out its statutory responsibilities and conducting the meat and poultry inspection program pursuant to the FMIA and PPIA. The poultry products inspections regulations already include such a rule (9 CFR 381.3(b)). However, the emergency situations provided for in the poultry products inspection regulations are limited to those that are "national" in scope. Since such waivers also may better enable FSIS to take appropriate and necessary action in response to an emergency in a smaller geographic area and the focus of concern here is assuring adequate public health protection, the Administrator has determined that the words "public health" should be substituted for "national" in § 381.3(b) of the regulations (9 CFR 381.3(b)).

These amendments to the Federal meat inspection regulations and the poultry products inspection regulations include rules and statements that are being issued to advise the public of the Agency's interpretation of recent amendments to the FMIA and provisions of the PPIA and to advise the public of the Agency's policy and procedures for implementing those amendments and initiating changes to institute a DI system for processing operations under the FMIA and PPIA. Notice and public procedure thereon are not required under the Administrative Procedure Act (APA) as to such rules and statements (5 U.S.C. 553(b)(A); see also 5 U.S.C. 553(d)(2)).

In addition, FSIS has concluded that in order to execute its functions in a due and timely manner while avoiding serious dislocation in the inspection program, it should begin pilot testing in the near future. Congress has directed the Department to take action to improve the efficiency and effectiveness of the inspection program in utilizing available resources in its coverage of processing operations so that, among other things, it is in a better position to respond to budgetary constraints and industry growth and development. Thus, FSIS must move as quickly as possible to institute a DI system. Yet, at the same time, it must protect the integrity and effectiveness of the inspection program in protecting the public health and welfare by assuring an orderly transition to the new system. It is the Agency's view that, given the scope and complexity of the issues and program variables involved, this can be accomplished only through a multi-stage process, with the first implementation action consisting of an experimentation period, and FSIS must act now if full implementation and the benefits anticipated by Congress are to be achieved within a reasonable time.

This approach is consistent with the Agency's policy of testing new procedures and other possible improvements affecting the inspection program in order to assure that they are feasible and will not adversely affect protection of the public health and welfare. Moreover, while the conduct of persons, firms, and corporations regulated as operators of those federally inspected establishments selected for pilot testing may be affected, any effects will be of limited scope and duration,

and restrictions may be relieved rather than imposed.

For these reasons, the Agency finds that giving advance notice and public procedure thereon beyond what is provided herein is impracticable and contrary to the public interest. Therefore, there is good cause, in accordance with the APA (5 U.S.C. 553(b)(B) and (d) (1) and (3)), for publishing an interim final rule with a request for comments which will become effective before the publication of a further notice.

Interim Final Rule

List of Subjects

9 CFR Part 303

Meat inspection.

9 CFR Part 381

Poultry products inspection.

On the basis of the foregoing, the Federal meat inspection regulations (Part 303) and the poultry products inspection regulations (Part 381) are amended as follows:

1. The authority citation for Part 303 is added to read as follows and the authority citation following § 303.1 is removed:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438 (21 U.S.C. 71 *et seq.*, 601 *et seq.*, Pub. L. 99-641, Title IV, 100 Stat. 3556, 3567-72, 33 U.S.C. 466-466k); Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. 3501 *et seq.*).

2. Section 303.1(g) is revised to read as follows:

§ 303.1 Exemptions.

* * * * *

(g) The Administrator may in specific classes of cases waive for limited periods any provisions of the regulations in this subchapter in order to permit appropriate and necessary action in the event of a public health emergency or to permit experimentation so that new procedures, equipment, and/or processing techniques may be tested to facilitate definite improvements: *Provided*, That such waivers of the provisions of such regulations are not in conflict with the purposes or provisions of the Act.

3. Part 303 is further amended by adding a new § 303.2 to read as follows:

§ 303.2 Experimentation: intensity of inspection coverage.

(a) Pursuant to the Processed Products Inspection Improvement Act of 1986, Title IV of the Futures Trading Act of 1986 (Pub. L. 99-641), in establishments preparing products at which inspection under the Act and regulations is required, the frequency with which and the manner in which meat food products made from livestock previously slaughtered in official establishments are examined and inspected by Program employees is to be based on considerations relevant to effective regulation of meat food products and protection of the health and welfare of consumers. In order to test procedures for use in making such determinations, and, in particular, for determining whether and, if so, to what extent the intensity of inspection coverage exceeds that which should be considered necessary pursuant to section 6 of the Act, as amended by section 403(a) of the Futures Trading Act of 1986, the Administrator is initiating experimentation of a new system of inspection for reviewing the performance of establishments and for designing the supervision and other conditions and methods of inspection coverage. For the period of such experimentation, the Administrator shall identify establishments for review, and the frequency and the manner of inspection by Program employees shall be determined on the basis of the results of those reviews and be otherwise in accordance with this section.

(b) The determinations referred to in paragraph (a) of this section shall be made by the Program and shall reflect evaluations of the performance and the characteristics of such establishments.

(1) In assessing the performance of an establishment, the following factors are appropriate for consideration:

(i) The history of compliance with applicable regulatory requirements by the person conducting operations at such establishment or by anyone responsibly connected with the business conducting operations at such establishment, as "responsibly connected" is defined in section 401(g) of the Act,

(ii) The competence of the person conducting operations at such establishment, as indicated by;

(A) Knowledge of appropriate manufacturing practices and applicable regulatory requirements;

(B) Demonstrated ability to apply such knowledge in a timely and consistent manner, and

(C) Commitment to correcting deficiencies noted by Program employees and otherwise assuring compliance with applicable regulatory requirements, and

(iii) The procedures used in such establishment to control the production process, environment, and resulting product in order to assure and monitor compliance with the requirements of the Act and the rules and regulations promulgated thereunder.

(2) In assessing the characteristics of an establishment, the following factors are appropriate for consideration:

(i) The complexity of the processing operation(s) conducted at such establishment,

(ii) The frequency with which each such operation is conducted at such establishment,

(iii) The volume of product resulting from each such operation at such establishment,

(iv) Whether and to what extent slaughter operations also are conducted at such establishment,

(v) What, if any, food products not regulated under this Act or the Poultry Products Inspection Act also are prepared at such establishment, and

(vi) The size of such establishment.

(c)(1) For the period of experimentation described in paragraph (a) of this section, the frequency of inspection of Program employees of operations other than slaughter may be reduced in an establishment in which the procedures referred to therein are being tested if and only if the evaluation of the performance of such establishment described in paragraph (b)(1) of this section indicates that there are:

(i) No instances, documented in records compiled no earlier than 10 years before, of substantial and recent noncompliance with applicable regulatory requirements (taking into account both the nature and frequency of any such noncompliance), and

(ii) The competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements.

(2)(i) The frequency of Federal inspection and other conditions and methods of inspection coverage in any establishment in which the Federal inspection is reduced shall be based on:

(A) The evaluation of the characteristics of such establishment described in paragraph (b)(2) of this section,[2]

(B) The significance of potential public health consequences of noncompliance, and

(C) The availability of Program employees.

(ii) To the extent that such frequency of inspection or other conditions and

[2] These evaluations will be based upon guidelines developed by FSIS and the complexity categorization in FSIS Directive 1030.2 (Documentation of Processing and Combination Assignments, 4/22/85). The guidelines and Directive will be available for public inspection and copying in the Policy Office, Room 3168, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC.

methods of inspection coverage are identified as conflicting with provisions of the regulations in this subchapter, the Administrator will waive such provisions for the period of experimentation, in accordance with § 503.1(g) of this subchapter.

PART 381—[AMENDED]

4. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791, as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*), unless otherwise noted.

5. Section 381.3(b) is amended by removing the word "national" and inserting, in its place, the words "public health".

6. Section 381.3 is further amended by adding new paragraphs (c) through (e) to read as follows:

§ 381.3 Adminstration.

* * * * *

(c) Pursuant to section 6 of the Act, the Administrator believes that, in establishments processing poultry products at which inspection under the Act and regulations is required, the frequency with which and the manner in which poultry products made from poultry previously slaughtered and eviscerated in official establishments are reinspected by Inspection Service employees should be based on considerations relevant to effective regulation of poultry products and protection of the health and welfare of consumers. In order to test procedures for use in making such determinations and, in particular, for determining whether and, if so, to what extent the intensity of inspection coverage exceeds that which should be deemed necessary pursuant to section 6 of the Act, the Administrator is initiating experimentation of a new system of inspection for reviewing the performance of establishments and for designing the supervision and other conditions and methods of inspection coverage. For the period of such experimentation, the Administrator shall identify establishments for review, and the frequency and the manner of inspection by Inspection Service employees shall be determined on the basis of the results of those reviews and be otherwise in accordance with this section.

(d) The determinations referred to in paragraph (c) of this section shall be made by the Inspection Service and shall reflect evaluations of the performance and the characteristics of such establishments.

(1) In assessing the performance of an establishment, the following factors are appropriate for consideration:

(i) The history of compliance will applicable regulatory requirements by the person operating such establishments or by anyone responsibly connected with the business operating such establishment, as "responsibly connected" is defined in section 18(a) of the Act,

(ii) The competence of the person operating such establishment, as indicated by;

(A) Knowledge of appropriate manufacturing practices and applicable regulatory requirements,

(B) demonstrated ability to apply such knowledge in a timely and consistent manner, and

(C) Commitment to correcting deficiencies noted by Inspection Service employees and otherwise assuring compliance with applicable regulatory requirements, and

(iii) The procedures used in such establishment to control the production process, environment, and resulting product in order to assure and monitor compliance with the requirements of the Act and the rules and regulations promulgated thereunder.

(2) In assessing the characteristics of an establishment, the following factors are appropriate for consideration.

(i) The complexity of the processing operation(s) conducted at such establishment,

(ii) The frequency with which each such operation is conducted at such establishment,

(iii) The volumn of product resulting from each such operation at such establishment,

(iv) Whether and to what extent slaughter and evisceration operations also are conducted at such establishment,

(v) What, if any, food products not regulated under this Act or the Federal Meat Inspection Act also are processed at such establishment, and

(vi) The size of such establishment.

(e)(1) For the period of experimentation described in paragraph (c) of this section, the frequency of inspection by Inspection Service employees of operations other than slaughter and evisceration may be reduced in an establishment in which the procedures referred to therein are being tested if and only if the evaluation of the performance of such establishment described in paragraph (d)(1) indicates that there are:

(i) No instances, documented in records complied no earlier than 10 years before, of substantial and recent noncompliance with applicable regulatory requirements (taking into account both the nature and frequency of any such noncompliance), and

(ii) The competence and control procedures needed to assure and monitor compliance with applicable regulatory requirements.

(2)(i) The frequency of Federal inspection and other conditions and methods of inspection coverage in any establishment in which the Federal inspection is reduced shall be based on;

(A) The evaluation of the characteristics of such establishment described in paragraph (d)(2) of this section,[2]

(B) The significance of potential public health consequences of noncompliance, and

(C) The availability of Inspection Service employees;

(ii) To the extent that frequency of inspection or other conditions and methods of inspection coverage are identified as conflicing with provisions of the regulations in this part, the Administrator will waive such provisions for the period of experimentation, in accordance with paragraph (b) of this section.

Done at Washington, DC, on March 25, 1987.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 87-6866 Filed 3-27-87; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70 and 74

Material Control and Accounting Requirements for Facilities Licensed To Possess and Use Formula Quantities of Strategic Special Nuclear Material

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its material control and accounting (MC&A) requirements for facilities licensed to possess and use formula quantities of strategic special nuclear material (SSNM). These amendments will apply to all such fuel cycle facilities except irradiated fuel reprocessing plants,

[2] These evaluations will be based upon guidelines developed by FSIS and the complexity categorization in FSIS Directive 1030.2 (Documentation of Processing and Combination Assignments, 4/22/85). The guidelines and Directive will be available for public inspection and copying in the Policy Office, Room 3168, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC.

waste disposal operations, nuclear reactors, and users of nuclear materials in sealed sources. The amendments will significantly strengthen MC&A capabilities at the affected facilities by requiring more timely detection of anomalies potentially indicative of SSNM losses and by providing for more rapid and conclusive resolution of discrepancies. The amendments will be cost-effective by virtue of the fact that current requirements which are not cost-effective will be eliminated and existing process, production, and quality control information will be utilized to enhance material control and accounting capabilities.

EFFECTIVE DATE: April 29, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. C.W. Emeigh, Safeguards Material Licensing and International Activities Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 Telephone: (301) 427-4769.

SUPPLEMENTARY INFORMATION:

Background

The amended MC&A requirements are being codified in 10 CFR Part 74 which has been established for documentation of all specific domestic MC&A regulatory requirements. Requirements for general licenses have been retained in Part 70.

Four high enriched uranium processing facilities will be subject to the amended requirements: Babcock and Wilcox, Lynchburg, Virginia; GA Technologies, San Diego, California; Nuclear Fuel Services, Erwin, Tennessee; and United Nuclear Corporation, Uncasville, Connecticut. Licensees processing special nuclear material of low strategic significance will continue to be subject to § 74.31, while licensees processing special nuclear material of moderate strategic significance and potential licensees processing strategic special nuclear material in irradiated fuel reprocessing plants will continue to be subject to the MC&A requirements contained in 10 CFR Part 70.

Current domestic MC&A regulations for strategic special nuclear material require bimonthly inventories. Comparison of an inventory difference (ID) with its associated limit of error (LEID) and with percent of throughput does not occur until nearly 30 days after the beginning of the physical inventory. Consequently, a thorough investigation of any identified anomaly might not occur, in the worst case, for 90 days after the contributing event occurred. The usefulness of these bimonthly inventories in providing assurance that significant quantities of SSNM have not been diverted has been limited by the difficulty encountered in conclusively resolving large inventory differences. This has necessitated reliance on material control data, plant security records, and intelligence information for the desired assurance. Recognizing this shortcoming, on August 20, 1981, the Commission approved publication of an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public comment on how to revise MC&A regulations for SSNM that is capable of being made into fission explosives. The ANPRM, which was published in the **Federal Register** on September 10, 1981 (46 FR 45144), included goals of the rulemaking and five options for achieving those goals. The primary goals were stated as: (1) Timely and localized detection of anomalies potentially indicative of a material loss, (2) rapid determination of whether an actual loss had occurred, and (3) availability of information to aid in the recovery of material in the event of an actual loss.

Two of the five options suggested in the ANPRM for achieving these goals retained an emphasis on periodic physical inventories. The other three options introduced requirements for the timely use of process monitoring information for safeguards purposes with de-emphasis of the importance and frequency of physical inventories. Responders to the ANPRM in some instances expressed reservations on the feasibility of using process monitoring information for safeguards purposes because of the lack of demonstrable evidence of successful application, but suggested no alternatives. Based on the comments received and on the results of continuing technical studies, a decision was made to proceed. The proposed rule that was presented to the Commission for publication included much of the substance of Options 3 and 4 of the ANPRM but was rewritten to: (1) Delete unnecessarily prescriptive requirements, (2) reduce the number of plans and programs required, (3) improve clarity, (4) incorporate capabilities to protect against certain types of inside adversary, and (5) provide flexibility for licensees to select the most cost-effective ways of achieving performance objectives. The rule gave credit for SSNM in secure containment and recognized differences with respect to safeguards vulnerability between processing SSNM in bulk form and in encapsulated form.

The proposed rule was published in the **Federal Register** on February 2, 1984 (49 FR 4091). Concurrent with the publication, copies of a Standard Format/Acceptance Criteria guide and a Regulatory Analysis were placed in the Public Document Room. Public comments were requested to be submitted by June 5, 1984. Citing technical complexity as the principal reason, the affected licensees requested an extension of the comment period. The comment period subsequently was extended to September 5, 1984 (June 19, 1984; 49 FR 25005).

Comments on the Proposed Rule

The Commission received four letters from licensees and a memorandum from the Department of State commenting on the proposed rule. Copies of the letters are available for public inspection and copying for a fee at the NRC Public Document Room at 1717 H Street NW., Washington, DC 20555.

Changes in Response to Public Comments

1. Three respondents expressed concern over the technical feasibility of implementing an MC&A system in compliance with proposed rule requirements. One respondent pointed out that experimental projects designed to enhance near-real-time accounting failed to demonstrate the applicability of the technique in actual operating plants. A second respondent took issue with a statement in the Regulatory Analysis which indicated that the prompt accountability concept was technologically feasible and that significant benefits to MC&A systems could be achieved at moderate cost. The respondent cited results of a study performed at its site for the Commission as the basis for its skepticism. The third respondent expressed concern over the complex statistics that obviously would be involved in analyzing material control test data over space and time, as had been proposed.

The Commission has re-evaluated the in-process monitoring requirements in the proposed rule with respect to whether or not design goals could be achieved. Based on this re-evaluation the Commission concluded that the objective of upgraded material control and accounting systems could be achieved through less drastic modification of existing requirements. This change in direction has resulted in deletion of multiple time and area-wide loss detection tests from the rule and addition of requirements for quality control tests and trend analyses at the unit process level. Additionally, physical inventory requirements have been modified in the area of inventory difference evaluation criteria. The significance of an inventory difference

will be initially tested against a threshold that takes into account measurement error only. If this threshold is exceeded, an investigation will be required which must include the computation of a second threshold that takes historical ID variation into account.

2. A comment was received to the effect that research and development operations by design do not achieve the steady state conditions required for application of in-process monitoring tests for loss detection. The respondent proposed that such operations be exempted from in-process monitoring requirements and instead be subjected to either bimonthly inventories or periodic material balances coupled with item monitoring.

The Commission agrees with this assessment and has modified the rule for research and development operations to require material balances on a lot or batch basis, item monitoring, and analysis of material balance data for trends. An appropriate exemption has been added to § 74.53(a) in addition to the new requirements in paragraph (c) of the same section.

3. A respondent stated an opinion that samples should be exempt from in-process monitoring requirements on the basis that the SSNM quantities in samples are small and would require the acquisition of a large number by an adversary in order to obtain five formula kilograms. Sample control systems would rapidly detect such a removal. An additional relevant point was the fact that the total quantity of SSNM in a laboratory is typically small.

The Commission agrees with the respondent and exempted samples containing less than 0.05 formula kilograms of SSNM from in-process monitoring requirements and modified item monitoring requirements to allow for the treatment of such samples as items. Larger samples are expected to be within the scope of a material control test whether it be applied in the originating process unit or in the laboratory. In the former case, adequate administrative controls would be required to protect the integrity of the sample until it was returned to the originating process unit.

4. Two respondents expressed concern over the effect of data that is statistically non-normal on the establishment of alarm thresholds for loss detection. The respondent indicated that analyses of current process monitoring data pointed up the fact that, for some units, test data were non-normally distributed.

The Commission agrees that this is a concern, especially if the tails of a statistical distribution come into consideration. Unacceptably high false alarm rates will result when such conditions exist. To alleviate this concern, the required detection probability for losses from individual process units has been revised downward from 99 percent to 95 percent.

5. Comments were received from two licensees regarding the difficulties likely to be encountered in complying with the bias correction requirements reflected in the proposed rule. The principal difficulty lies in the fact that bias corrections are not sufficiently timely to permit record corrections to be made on the process floor. Retroactive corrections to the book records necessitate the correction of label values on individual items if the accounting system is to balance.

The Commission agrees that bias corrections are difficult to accommodate in the accounting system. However, accounting for the impact of biases is an important consideration in achieving a reliable MC&A system. Consequently, requirements for bias corrections have been retained but modified to resolve some of the associated difficulties.

6. A respondent requested that consideration be given to permitting storage of untamper-sealed items in enclosures other than vaults. The respondent provided examples of situations in which untamper-sealed containers and unencapsulated solid fuel forms were stored in controlled access areas for varying time periods during the fabrication process. It was pointed out that in many instances it was impractical to tamper-seal certain material forms and that minimal handling was important to prevent damage.

The respondent's points are considered valid. Consequently, the final rule has been modified to permit storage of untamper-sealed containers in permanently controlled access areas. As indicated in the acceptance criteria, the area should be equipped with adequate controls to preclude undetected access to the SSNM by one individual in any position. The requirement to provide protection at least equivalent to tamper-safing dictates the level of control that is expected.

7. One respondent stated that the requirements of 10 CFR 70.57 and 70.58 should be changed to performance-oriented safeguards.

The Commission agrees with the respondent's statement and has taken action to accomplish this task. The quality assurance and accounting requirements in § 70.89 of the proposed rule (§ 74.59 of the final rule) have been replaced with portions of 10 CFR 70.57 and 70.58 that have been rewritten to be performance oriented, to delete obsolete requirements, and to clarify the quality assurance and accounting requirements applicable to Category I licensees.

Comments Not Incorporated

1. A respondent indicated that the 0.1 percent of active inventory limit on the standard error of the inventory difference estimator was not achievable for its particular process.

This comment appears to be the result of a misconception of what is being required. The proposed limit, while somewhat more restrictive than the current limit, should be achievable without extraordinary effort. Taking into account the differences in the method of computation, the current limit (i.e., 0.5% of additions to or removals from process expressed at the two standard deviation level) would equate to one standard deviation being less than 0.125 percent of active inventory. The decrease to 0.10 percent of active inventory is considered justified on the premise that there have been significant advances in state-of-the-art measurement technology since the current limit was imposed. A review of the level of performance of current licenses supports this conclusion.

2. A respondent expressed concern over the restrictions that might be imposed on the use of its workforce if detection within administratively controlled areas were to be required.

This comment became moot when area loss detection requirements were deleted from the rule.

3. A comment was received to the effect that the proposed 0.25 gm/liter limit on the concentration of SSNM in scrap contained in 30 gallon or larger containers would have a significant impact on a licensee's storage capability. Additionally, the respondent indicated that the proposed limit would have a significant impact on the amount of SSNM per container that they could receive from offsite for scrap recovery.

The exemption documented in § 70.83(a)(2) of the proposed rule (§ 74.53(a)(2) of the final rule) is not intended to be a limit on the amount of SSNM per container. Instead the 0.25 gm/liter criterion is considered a de minimis quantity below which application of the in-process monitoring requirements of paragraph (b) of the same section is not required.

4. The necessity for including fuel fabrication facilities in the scope of rule applicability was questioned by a respondent. The contention was put forth that, unlike conversion facilities, the problems the rule is intended to

address are not present in fabrication facilities (i.e. unmeasured side streams and large inventory differences).

The Commission agrees that excessive inventory differences are less likely to occur in fuel fabrication facilities since there is minimal handling of SSNM in bulk form and the materials do not change chemical form. However, this does not preclude the possibility of a significant diversion. Consequently, the decision has been made to apply the rule to fuel fabrication as well as conversion facilities.

5. Affected licensees stated that, in their opinion, the conclusions reflected in the Regulatory Analysis were not representative of the actual cost impact likely to be experienced at their facilities.

In response, site-specific value/impact analyses were performed. Information obtained in preparing those analyses has been taken into account in the revised Regulatory Analysis prepared in support of the final rule.

6. A respondent expressed concern that drastic changes in regulatory requirements, such as those incorporated in the proposed rule, were not receiving adequate review within the Commission prior to publication for comment. In particular, the respondent indicated that there should be more involvement of licensing and inspection personnel in the rulemaking process in view of their roles in ultimately approving licensees' plans and inspecting their application.

The Commission does not agree with the respondent's position. Rulemaking procedures include scheduled milestones for review and comment by licensing, inspection, and other interested regulatory personnel during the formulation of new rules. Rules are particularly reviewed for inspectability prior to issuance.

Other Changes

1. Requirements of the proposed rule in §§ 70.81 through 70.89 have been redesignated §§ 74.51 through 74.59 in the final rule. This change was made to be consistent with the Commission's objective of eventually incorporating all domestic MC&A regulatory requirements in Part 74. With this action, the MC&A requirements in §§ 70.51, 70.57, and 70.58 apply only to licensees possessing and using special nuclear material of moderate strategic significance, strategic special nuclear material in irradiated fuel reprocessing plants, and special categories of licensees possessing SNM of low strategic significance who are not currently required to have an approved MC&A plan. Performance-oriented regulations subsequently are expected to be developed for those categories of licensees and incorporated in Part 74.

2. The list of definitions in § 74.4 has been expanded to include appropriate definitions from Part 70 and new definitions applicable to the subject rule. Additional definitions may be added when the rules for other categories of licensees, referenced above, are transferred to Part 74. With respect to terminology, Part 74 reflects the terms the Commission now prefers when referring to certain MC&A and statistical concepts. However, the language in Part 70 has not been changed.

3. Irradiated fuel reprocessing plants have been deleted from the applicability statement in the final rule. This action was taken because of unresolved questions as to whether a reprocessing plant could comply with all rule requirements and the negative outlook for domestic reprocessing in the near term. It is expected that by the time reprocessing becomes a viable option in the United States, there will be significant technological advances that will influence material control and accounting system design for such plants.

4. A statement has been added to § 74.51 to clarify the fact that licensees are required to follow currently approved fundamental nuclear material control plans until newly submitted plans are reviewed and approved.

5. Section 74.51(c) has been modified to provide flexibility in the timing of the implementation of the new rule by licensees. Depending upon current MC&A practices, the complexity of production operations, and advance planning by the licensees, the time within which adequate performance against rule requirements is achieved will vary from licensee to licensee. In some cases, current practices approach what would be expected under an upgraded MC&A system. Under these conditions, a licensee may be able to achieve adequate performance in less than six months. At the other extreme, the current system may bear no resemblance to an upgraded system; hence, longer than six months may be required for full implementation of the rule.

6. The deletion of irradiated fuel reprocessing plants from the scope of the rule made the exemption for SSNM exhibiting external radiation in excess of 100 rem per hour at three feet irrelevant. Therefore, this proposed exemption has been deleted. Any Category I licensee who may have occasion to handle irradiated fuel may request an exemption from the in-process monitoring requirements of § 74.53(b).

7. For SSNM having an estimated measurement uncertainty greater than five percent that is either input to or output from a unit operation that processes less than five formula kilograms in three months, a new exemption has been added to § 74.53(a). This exemption is considered appropriate on the basis of the low throughput of the unit, the unattractive nature of the material, and the high uncertainty that would be associated with any material control test results.

8. A requirement has been added to § 74.55 to detect a five formula kilogram loss within two months for items stored in a permanently controlled access area located outside of a material access area (MAA). This requirement was inadvertently omitted from the proposed rule. This oversight has been discussed with affected licensees who concurred with the need for the requirement.

9. In lieu of modifying § 74.13(b)(2) to add a technical reference to § 74.59, a requirement has been included in § 74.59(f)(1)(i) to investigate and report when the estimate of the standard error of the inventory difference exceeds 0.1 percent or more of active inventory. The requirement is essentially the same as that currently in § 74.13(b)(2) but reworded to be consistent with the terminology in the Category I Rule. It does not represent a duplication since the requirement in § 74.59(f)(1)(i) supersedes § 74.13(b)(2) in its entirety for Category I licensees.

10. Miscellaneous minor changes have been made that have no impact on the substance of the rule.

International Considerations

It should be noted that the performance goals for the rule, stated previously, are domestic goals and are considered to be appropriate for a subnational threat. For all U.S. licensees, the detection and response capability of the rule have been determined to be sufficient to adequately protect the public health and safety from a subnational threat. On the other hand, the International Atomic Energy Agency (IAEA), which is responsible for applying international safeguards in non-nuclear weapons states, must judge whether a significant diversion has occurred in the face of a possible national conspiracy. In order to reach its conclusion with the required level of certainty, the IAEA may find it necessary to continue to place primary reliance on periodic physical inventories as opposed to an analysis of process

monitoring data, as promulgated in this rule.

Environmental Impact—Categorical Exclusion

The material control and accounting (MC&A) requirements for licensees licensed to possess and use five or more formula kilograms of strategic special nuclear material will be amended in two major ways:

The first major amendment will move certain safeguards related recordkeeping and reporting requirements now found in Part 70 to Part 74 to be consistent with the Commission's objective for separating safety requirements from safeguards requirements.

Pursuant to 10 CFR 51.22(c)(3) (ii) and (iii), a categorical exclusion is granted in amendments to Commission regulations that relate to recordkeeping and reporting requirements. Moving the MC&A requirements from Part 70 to Part 74 meets the eligibility criteria for this categorical exclusion. Accordingly, no environmental impact statement or environmental assessments needs to be prepared in conjuction with the issuance of these amendments.

Finding of No Significant Environmental Impact: Availability

The second major amendment will modify material control and accounting requirements for licensees who possess and use formula quantities of strategic special nuclear material to achieve the following objectives:

—Prompt investigation of anomalies potentially indicative of SSNM losses,
—Timely detection of the possible abrupt loss of five or more formula kilograms of SSNM from individual unit processes,
—Rapid determination of whether an actual loss of five or more formula kilograms occurred,
—Ongoing confirmation of the presence of SSNM in assigned locations, and
—Timely generation of information to aid in the recovery of SSNM in the event of an actual loss.

The principal differences between the MC&A requirements in this rule and those in the current rules are the use of process monitoring data for material control, a longer interval between physical inventories, and an item monitoring program designed to detect a five formula kilogram loss.

For the following reasons, the Commission has determined not to prepare an environmental impact statement for the second major amendment and, in accordance with 10 CFR 51.32 and 51.34, finds that the proposed amendments have no significant impact on the environment.

1. The rule will not result in changes in the licenses' processes or manufacturing procedures and therefore will not affect or alter any release of effluents to the environment.

2. The rule will affect four high enriched uranium fuel processing facilities, all of whom have undergone individual NEPA review.

The environmental assessment upon which the foregoing determination is based is included in the Regulatory Analysis for this rulemaking action and is available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Dr. W.B. Brown, Chief, Safeguards Material Licensing and International Activities Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4185.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to be Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval numbers 3150–0009 (for Part 70) and 3150–0123 (for Part 74).

Regulatory Analysis

The Commission has prepared a regulatory analysis on this final rule. The analysis examines the costs and benefits of the alternatives considered by the Commission. The analysis is available for inspection or copying for a fee in the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Single copies of the analysis may be obtained from Mr. C.W. Emeigh, Safeguards Material Licensing and International Activities Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 427–4769.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This rule affects four facilities that process high enriched uranium and is expected to result in positive cost/benefit to the industry and, in addition, to provide enhanced safeguards capabilities. The facilities include: Babcock and Wilcox Company, Lynchburg, Virginia: GA Technologies, San Diego, California; Nuclear Fuel Services, Erwin, Tennessee; and United Nuclear Corporation, Uncasville, Connecticut. These companies are dominant in their service areas and do not fall within the definition of "small entities" set forth in the Regulatory Flexibility Act or by the Small Business Administration in 13 CFR Part 121.

Backfit Analysis

The staff has determined that a backfit analysis is not required for this rule since these amendments do not apply to 10 CFR Part 50 licensees.

List of Subjects

10 CFR Part 70

Hazardous materials-transportation, Material control and accounting, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 74

Accounting, Material control and accounting, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Special nuclear material.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 70 and 74.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5845, 5846).

Section 70.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)–(k), 70.24(a) and (b), 70.32(a)(3), (5), (6), (d), and (i), 70.36, 70.39(b)

and (c), 70.41(a), 70.42(a) and (c), 70.56, 70.57(b), (c), and (d), 70.58(a)–(g)(3), and (h)–(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a(a) and (d), 70.20b(c) and (e), 70.21(c), 70.24(b), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)–(g), 70.56, 70.57(b) and (d), and 70.58(a)–(g)(3) and (h)–(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.5, 70.20b(d) and (e), 70.38, 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k), and (l), 70.59, and 70.60(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 70.22, paragraph (b) is revised to read as follows:

§ 70.22 Contents of applicants.

* * * * *

(b) Each application for a licensee to possess and use at any one time and location special nuclear material in a quantity exceeding one effective kilogram except for applications for use as sealed sources and for those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation, must contain a full description of the applicant's program for control and accounting for that special nuclear material which will be in the applicant's possession under license, to show how compliance with the requirements of § 70.58, § 74.31, or § 74.51 of this chapter, as applicable, will be accomplished.

* * * * *

3. In § 70.32, paragraph (c)(1) is revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c)(1) Each license authorizing the possession and use at any one time and location of special nuclear material in a quantity exceeding one effective kilogram, except for use as sealed sources and those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, and those involved in a waste disposal operation shall contain and be subject to a condition requiring the licensee to maintain and follow:

(i) The program for control and accounting for special nuclear material and fundamental nuclear material controls described pursuant to §§ 70.22(b), 70.58(l), 74.31(b), or 74.41(c)(1) of this chapter, as appropriate;

(ii) The measurement control program for special nuclear material control and accounting described pursuant to §§ 70.57(c), 74.31(b), or 74.59(e) of this chapter, as appropriate; and

(iii) Such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material and providing that the licensee shall make no change which would decrease the effectiveness to the material control and accounting program prepared pursuant to §§ 70.22(b), 70.58(l), 70.51(g), 74.31(b), or 74.51(c)(1) of this chapter, and the measurement control program prepared pursuant to §§ 70.57(c), 74.31(b), or 74.59(e) of this chapter without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for amendment to its license pursuant to § 70.34.

* * * * *

4. In § 70.51, paragraph (b) and the introductory text of paragraph (e) are revised to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

* * * * *

(b) Licensees subject to the recordkeeping requirements of §§ 74.31 and 74.59 of this chapter are exempt from the requirements of § 70.51(b)(1) through (5).

Otherwise:

* * * * *

(e) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of strategic special nuclear material in irradiated fuel reprocessing operations or special nuclear material of moderate strategic significance and to use such special nuclear material for activities other than as sealed sources or those activities involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter or those involved in a waste disposal operation; or as reactor irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated fuel reprocessing plants, shall:

* * * * *

5. In § 70.57, the introductory text of paragraph (b) is revised to read as follows:

§ 70.57 Measurement control program for special nuclear material control and accounting.

* * * * *

(b) In accordance with § 70.58(f), each licensee who is authorized to possess at any one time and location strategic special nuclear material in irradiated fuel reprocessing operations or special nuclear material of moderate strategic signifiance in a quantity exceeding one effective kilogram and to use such special nuclear material for activities other than as sealed sources or those activities involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, or those involved in waste disposal operations, shall establish and maintain a measurement control program for special nuclear material control and accounting measurements. Each program function shall be identified and assumed in the licensee organization in accordance with § 70.58(b)(2), and functional and organizational relationships shall be set forth in writing in accordance with § 70.58(b)(3). The program shall be described in a manual referenced in the Plan which shall contain the procedures, instructions, and forms prepared to meet the requirements of this paragraph, including procedures for the preparation, review, approval, and prompt dissemination of any program modifications or changes. The licensee's program shall include the following:

* * * * *

6. In § 70.58, paragraph (a) is revised to read as follows:

§ 70.58 Fundamental nuclear material controls.

(a) Each licensee who is authorized to possess at any one time and location strategic special nuclear material in irradiated fuel reprocessing operations or special nuclear material of moderate strategic significance in a quantity exceeding one effective kilogram, and to use such special nuclear material except for sealed sources and those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation, shall establish, maintain, and follow written material control and accounting procedures in compliance with the fundamental nuclear material control requirements specified in paragraphs (b) through (k) of this section and such other controls as the Commission determines to be essential for the control of and accounting for special nuclear material.

* * * * *

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

7. The authority citation for Part 74 is revised to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C 2273); §§ 74.31, 74.81, and 71.82 are issued under secs. 161b and 161i, 68 Stat. 948, 949 as amended (42 U.S.C. 2201(b), 2201(i)), and §§ 74.11, 74.13, and 74.15 are

issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

8. Section 74.4 is amended by adding the following definitions in the proper alphabetical sequence.

§ 74.4 Definitions.

* * * * *

"Abrupt loss" means a loss occurring in the time interval between consecutive sequential performances of a material control test which is designed to detect anomalies potentially indicative of a loss of strategic special nuclear material from a specific unit of SSNM (i.e., a quantity characterized by a unique measurement) introduced into a process.

"Accessible location" means a process location at which SSNM could be acquired without leaving evidence of the acquisition, i.e., without tools or other equipment to obviously violate the integrity of the containment.

* * * * *

"Additions to material in process" means: (1) Receipts that are opened, except for receipts opened only for sampling and subsequently maintained under tamper-safing; (2) opened sealed sources; and (3) material removed from process for nonconformance with chemical or physical specifications that is subsequently reprocessed, measured for contained SSNM, and reintroduced to process.

"Alarm Threshold" means a predetermined quantity of SSNM calculated from the specified probability of detection for a given loss and the standard deviation associated with a material control test. An alarm threshold serves to trigger a response action.

"Bias" means the deviation of the expected value of a random variable from the corresponding correct or assigned value.

"Calibration" means the process of determining the numerical relationship between the observed output of a measurement system and the value, based upon reference standards, of the characteristic being measured.

"Category IA material" means SSNM directly useable in the manufacture of a nuclear explosive device, except if:

(1) The dimensions are large enough (at least two meters in one dimension, greater than one meter in each of two dimensions, or greater than 25cm in each of three dimensions) to preclude hiding the item on an individual;

(2) The total weight of five formula kilograms of SSNM plus its matrix (at least 50 kilograms) cannot be carried inconspicuously by one person; or

(3) The quantity of SSNM (less than 0.05 formula kilograms) in each container requires protracted diversions in order to accumulate five formula kilograms.

"Category IB material" means all SSNM material other than Category IA.

* * * * *

"Continuous process" means a unit process in which feed material must be introduced in a systematic manner in order to maintain equilibrium conditions.

"Controlled access area" means any temporarily or permanently established area which is clearly demarcated, access to which is controlled, and which affords isolation of the material or persons within it.

* * * * *

"Element" means uranium or plutonium.

"Estimate" means a specific numerical value arrived at by the application of an estimator.

"Estimator" means a function of a sample measurement used to estimate a population parameter.

"Fissile isotope" means: (1) Uranium U–233, or (2) uranium-235 by enrichment category, (3) plutonium-239, and (4) plutonium–241.

"Formula kilogram" means SSNM in any combination in a quantity of 1000 grams computed by the formula, grams = (grams contained U–235) + 2.5 (grams U–233 + grams plutonium).

* * * * *

"License," except where otherwise specified, means a license issued pursuant to Part 70 of this chapter.

* * * * *

"Material" means special nuclear material.

"Material access area" means any location which contains special nuclear material, within a vault or a building, the roof, walls, and floor of which constitute a physical barrier.

"Material balance" means the determination of an inventory difference (ID).

"MC&A alarm" means a situation in which there is: (1) an out-of-location item or an item whose integrity has been violated, (2) an indication of a flow of SSNM where there should be none, or (3) a difference between a measured or observed amount or property of material and its corresponding predicted or property value that exceeds a threshold established to provide the detection capability required by § 74.53.

"Material control test" means a comparison of a pre-established alarm threshold with the results of a process difference or process yield performed on a unit process.

"Material in process" means any special nuclear material possessed by the licensee except in unopened receipts, sealed sources, measured waste discards, and ultimate product maintained under tamper-safing.

* * * * *

"Power of detection" means the probability that the critical value of a statistical test will be exceeded when there is an actual loss of a specific SSNM quantity.

"Process difference" (PD) means the determination of an ID on a unit process level with the additional qualification that difficult to measure components may be modeled.

"Process yield" means the quantity of SSNM actually removed from a unit process compared with the quantity predicted (based on a measured input) to be available for removal. Process yield differs from a process difference in that holdup and sidestreams are not measured or modeled.

"Produce" when used in relation to special nuclear material, means: (1) To manufacture, make, produce, or refine special nuclear material; (2) to separate special nuclear material from other substances in which such material may be contained; or (3) to make or to produce new special nuclear material.

"Random error" means the deviation of a random variable from its expected value.

"Receipt" means special nuclear material received by a licensee from an off-site source.

"Reference standard" means a material, device, or instrument whose assigned value is known relative to national standards or nationally accepted measurement systems. This is also commonly referred to as a traceable standard.

"Removals" means measured quantities of special nuclear material disposed of as discards, encapsulated as a sealed source, or in ultimate product placed under tamper-safing or shipped offsite.

"Research and development" means: (1) Theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

"Scrap" means the various forms of special nuclear material generated during chemical and mechanical processing, other than recycle material and normal process intermediates, which are unsuitable for continued processing, but all or part of which will be converted to useable material by appropriate recovery operations.

"Sealed source" means any special nuclear material that is physically encased in a capsule, rod, element, etc. that prevents the leakage or escape of the special nuclear material and that prevents removal of the special nuclear material without penetration of the casing.

* * * * *

"Standard Error of the Inventory Difference" (SEID) means the standard deviation of an inventory difference that takes into account all measurement error contributions to the components of the ID.

"Standard Error of the Process Difference" means the standard deviation of a process difference value that takes into account both measurement and nonmeasurement contributions to the components of PD.

* * * * *

"Tamper-safing" means the use of devices on containers or vaults in a manner and at a time that ensures a clear indication of any violation of the integrity of previouly made measurements of special nuclear material within the container or vault.

"Traceability" means the ability to relate individual measurement results to national standards or nationally accepted measurement systems through an unbroken chain of comparisons.

"Ultimate product" means any special nuclear material in the form of a product that would not be further processed at that licensed location.

"Unit process" means an identifiable segment or segments of processing activities for which the amounts of input and output SSNM are based on measurements.

"Unopened receipts" means receipts not opened by the licensee, including receipts of sealed sources, and receipts opened only for sampling and subsequently maintained under tamper-safing.

"Vault" means a windowless enclosure with walls, floor, roof and door(s) designed and constructed to delay penetration from forced entry.

9. In § 74.8, paragraph (b) is revised to read as follows:

§ 74.8 Information collection requirements: OMB approval.

* * * * *

(b) The approved information collection requirements contained in this part appear in §§ 74.11, 74.13, 74.31, and 74.51.

* * * * *

10. Subpart E of Part 74 (§§74.51 through 74.59) is added to read as follows:

Subpart E—Formula Quantities of Strategic Special Nuclear Material

Sec.

Subpart E—Formula Quantities of Strategic Special Nuclear Material

§ 74.51 Nuclear material control and accounting for strategic special nuclear material.

(a) *General performance objectives.* Each licensee who is authorized to possess five or more formula kilograms of strategic special nuclear material (SSNM) and to use such material at any site, other than a nuclear reactor licensed pursuant to Part 50 of this chapter, an irradiated fuel reprocessing plant, or an operation involved with waste disposal shall establish, implement, and maintain a Commission approved material control and accounting (MC&A) system that will achieve the following objectives:

(1) Prompt investigation of anomalies potentially indicative of SSNM losses;

(2) Timely detection of the possible abrupt loss of five or more formula kilograms of SSNM from an individual unit process;

(3) Rapid determination of whether an actual loss of five or more formula kilograms occurred;

(4) Ongoing confirmation of the presence of SSNM in assigned locations; and

(5) Timely generation of information to aid in the recovery of SSNM in the event of an actual loss.

(b) *System capabilities.* To achieve the general performance objectives specified in § 74.51(a), the MC&A system must provide the capabilities described in §§ 74.53, 74.55, 74.57 and 74.59 and must incorporate checks and balances that are sufficient to detect falsification of data and reports that could conceal diversion by:

(1) An individual, including an employee in any position; or

(2) Collusion between an individual with MC&A responsibilities and another individual who has responsibility or control within both the physical protection and the MC&A systems.

(c) *Implementation dates.* Each licensee subject to the requirements of paragraph (a) of this section shall:

(1) No later than September 25, 1987, submit a fundamental nuclear material control (FNMC) plan describing how the licensee will comply with the requirements of paragraph (b) of this section; and

(2) No later than April 29, 1988, or 90 days after the plan submitted pursuant to paragraph (c)(1) of this section is approved, whichever is later, implement the approved plan. Current FNMC plans must be followed until new plans are approved by the NRC.

(d) *Exemptions.* (1) Notwithstanding paragraph (c)(2) of this section, a licensee may delay, for an additional 18 months beyond the prescribed 90 days, implementation of provisions of the plan involving process shutdown for resolution of alarms. However, during such delay, the licensee shall continue to conduct inventories at bimonthly intervals.

(2) Notwithstanding § 74.59(f)(1), licensees shall perform at least three bimonthly physical inventories after implementation of the NRC approved FNMC Plan and shall continue to perform bimonthly inventories until performance acceptable to the NRC has been demonstrated and the Commission has issued formal approval to perform semiannual inventories. Licensees who have prior experience with process monitoring and/or can demonstrate acceptable performance against all Plan commitments may request authorization to perform semiannual inventories at an earlier date.

§ 74.53 Process monitoring.

(a) Licensees subject to § 74.51 shall monitor internal transfers, storage, and processing of SSNM. The process monitoring must achieve the detection capabilities described in paragraph (b) of this section for all SSNM except:

(1) SSNM that is subject to the item loss detection requirements of § 74.55;

(2) Scrap in the form of small pieces, cuttings, chips, solutions, or in other forms that result from a manufacturing process, held in containers of 30 gallons or larger, with an SSNM content of less than 0.25 grams per liter;

(3) SSNM with an estimated measurement standard deviation greater than five percent that is either input or output material associated with a unit that processes less than five formula kilograms over a consecutive three-month period; and

(4) SSNM involved in research and development operations that process less than five formula kilograms during any seven-consecutive-day period.

(b) *Unit process detection capability.* For each unit process, a licensee shall establish a production quality control program capable of monitoring the status of material in process. The program shall include:

(1) A statistical test that has at least a 95 percent power of detecting an abrupt loss of five formula kilograms within three working days of a loss of Category IA material from any accessible process location and within seven calendar days of a loss of Category IB material from any accessible process location;

(2) A quality control test whereby process differences greater than three times the estimated standard deviation of the process difference estimator and 25 grams of SSNM are investigated; and

(3) A trend analysis for monitoring and evaluating sequences of material control test results from each unit process to determine if they indicate a pattern of losses or gains that are of safeguards significance.

(c) For research and development operations exempt from the requirements of paragraph (b) of this section, the licensee shall:

(1) Perform material balance tests on a lot or a batch basis, as appropriate, or monthly, whichever is sooner, and investigate any difference greater than 200 grams of plutonium or U-233 or 300 grams of U-235 that exceeds three times the estimated standard error of the inventory difference estimator;

(2) Evaluate material balance results generated during an inventory period for indications of measurement biases or unidentified loss streams and investigate, determine the cause(s) of, and institute corrective action for cumulative inventory differences generated during an inventory period that exceed three formula kilograms of SSNM.

§ 74.55 Item monitoring.

(a) Licensees subject to § 74.51 shall provide the detection capability described in paragraph (b) of this section for laboratory samples containing less than 0.05 formula kilograms of SSNM and any uniquely identified items of SSNM that have been quantitatively measured, the validity of that measurement independently confirmed, and that additionally have been either:

(1) Tamper-safed or placed in a vault or controlled access area that provides protection at least equivalent to tamper-safing; or

(2) Sealed such that removal of SSNM would be readily and permanently apparent (e.g., encapsulated).

(b) The licensee shall verify on a statistical sampling basis, the presence and integrity of SSNM items. The statistical sampling plan must have at least 99 percent power of detecting item losses that total five formula kilograms or more, plant-wide, within:

(1) Thirty calendar days for Category IA items and 60 calendar days for Category IB items contained in a vault or in a permanently controlled access area isolated from the rest of the material access area (MAA);

(2) Three working days for Category IA items and seven calendar days for Category BI items located elsewhere in the MAA, except for reactor components measuring at least one meter in length and weighing in excess of 30 kilograms for which the time interval shall be 30 calendar days;

(3) Sixty calendar days for items in a permanently controlled access area outside of an MAA; or

(4) Sixty calendar days for samples in a vault or permanently controlled access area and 30 calendar days for samples elsewhere in the MAA for samples each containing less than 0.05 formula kilograms of SSNM.

(c) Items containing scrap in the form of small pieces, cuttings, chips, solutions, or in other forms that result from a manufacturing process, held in containers of 30 gallon or larger, with an SSNM concentration of less than 0.25 grams per liter are exempt from the requirements of paragraph (b) of this section.

§ 74.57 Alarm resolution.

(a) Licensees subject to § 74.51 shall provide the MC&A alarm resolution capabilities described in paragraphs (b) through (f) of this section.

(b) Licensees shall resolve the nature and cause of any MC&A alarm within approved time periods.

(c) Each licensee shall notify by telephone, the appropriate NRC Regional Office listed in Appendix A of Part 73 of this chapter of any MC&A alarm that remains unresolved beyond the time period specified for its resolution in the licensee's fundamental nuclear material control plan. Notification shall occur within 24 hours except when a holiday or weekend intervenes in which case the notification shall occur or the next scheduled workday. The licensee may consider an alarm to be resolved if:

(1) Clerical or computational error is found that clearly was the cause for the alarm; or

(2) An assignable cause for the alarm is identified or it is substantiated that no material loss has occurred.

(d) If a material loss has occurred, the licensee shall determine the amount of SSNM lost and take corrective action to:

(1) Return out-of-place SSNM, if possible, to its appropriate place;

(2) Update and correct associated records; and

(3) Modify the MC&A system, if appropriate, to prevent similar future occurrences.

(e) The licensee shall provide an ability to rapidly assess the validity of alleged thefts.

(f) If an abrupt loss detection estimate exceeds five formula kilograms of SSNM:

(1) Material processing operations related to the alarm must by suspended until completion of planned alarm resolution activities, unless the suspension of operations will adversely affect the ability to resolve the alarm. Operation of continuous processes may continue for 24 hours from the time of the occurrence of the alarm during which time checks shall be made for mistakes in records or calculations that could have caused the alarm.

(2) Within 24 hours, the licensee shall notify the appropriate NRC Regional Office by telephone that an MC&A alarm resolution procedure has been initiated.

§ 74.59 Quality assurance and accounting requirements.

(a) Licensees subject to § 74.51 shall provide the quality assurance and accounting capabilities described in paragraphs (b) through (h) of this section.

(b) *Management structure.* The licensee shall:

(1) Establish and maintain a management structure that includes clear overall responsibility for planning, coordinating, and administering material control and accounting functions, independence of material control and accounting functions from production responsibilities, and separation of functions such that the activities of one individual or organizational unit serve as controls over and checks of the activities of others; and

(2) Provide for the adequate review, approval, and use of those material control and accounting procedures that are identified in the approved FNMC plan as being critical to the effectiveness of the described system.

(c) *Personnel qualification and training.* The licensee shall assure that personnel who work in key positions where mistakes could degrade the effectiveness of the material control and accounting system are trained to maintain a high level of safeguards awareness and are qualified to perform their duties and/or responsibilities.

(d) *Measurements.* The licensee shall establish and maintain a system of measurements sufficient to:

(1) Substantiate the plutonium element and uranium element and fissile

isotope content of all SSNM received, produced, transferred between areas of custodial responsibility, or inventory, or shipped, discarded, or otherwise removed from inventory;

(2) Enable the estimation of the standard deviation associated with each measured quantity; and

(3) Provide the data necessary for performance of the material control tests required by § 74.53(b).

(e) *Measurement control.* The licensee shall assure that the quality of SSNM measurement systems and material processing practices is continually controlled to a level of effectiveness sufficient to satisfy the capabilities required for detection, response, and accounting. To achieve this objective the licensee shall:

(1) Perform engineering analyses and evaluations of the design, installation, preoperational tests, calibration, and operation of all measurement systems to be used for MC&A purposes;

(2) Perform process and engineering tests using well characterized materials to establish or to verify the applicability of existing procedures for mixing and sampling SSNM and maintaining sample integrity during transport and storage. Tests must be repeated at least every three years, at any time there is a process modification that alters the physical or chemical composition of the SSNM, or whenever there is a change in the sampling technique or equipment; and

(3) Generate current data on the performance of measurement processes, including, as appropriate, values for bias corrections, uncertainties on calibration factors, and random error standard deviations. The program must include:

(i) The onging use of standards for calibration and control of all applicable measurement systems. Calibrations must be repeated whenever any change in a measurement system occurs which has the potential to affect a measurement result or when program data, generated by tests performed at a pre-determined frequency, indicate a need for recalibration. Calibrations and tests must be based on standards with traceability to national standards or nationally accepted measurement systems; and

(ii) A system of control measurements to provide current data for the estimation of the standard deviations that are significant contributors to the measurement uncertainties associated with shipper/receiver differences, inventory differences, and process differences.

(4) Utilize the data generated during the current material balance period for the estimation of the standard error of the inventory difference (SEID) and the standard error of the process differences. Calibration and measurement error data collected and used during immediately preceeding material balance periods may be combined with current data provided that the measurement systems are in statistical control and the combined data are utilized in characterizing the unknowns.

(5) Evaluate all program data and information to assure that measurement performance is so controlled that the SEID estimator is less than 0.1 percent of active inventory.

(6) Apply bias corrections by an appropriate procedure whereby:

(i) Bias corrections are applied to individual items if for any measurement system the relative bias estimate exceeds twice the standard deviation of its estimator, the absolute bias estimate exceeds 50 grams of SSNM when applied across all affected items, and the absolute bias estimate on an individual item basis exceeds the rounding error of affected items; and

(ii) All biases (regardless of significance) that are not applied as corrections to individual items are applied as a correction to the inventory difference.

(7) Investigate and take corrective action, as appropriate, to identify and reduce associated measurement biases when, for like material types (i.e., measured by the same measurement system), the net cumulative shipper/receiver differences accumulated over a six-month period exceed the larger of one formula kilogram or 0.1 percent of the total amount received.

(8) Establish and maintain a statistical control system designed to monitor the quality of each type of program measurement. Control limits must be established to be equivalent to levels of significance of 0.05 and 0.001. Control data exceeding the 0.05 limits must be investigated and corrective action taken in a timely manner. Whenever a single data point exceeds the 0.001 control limit, the measurement system in question must not be used for material control and accounting purposes until it has been brought into control at the 0.05 level.

(f) *Physical inventory.* The licensee shall:

(1) Except as required by Part 75 of this Chapter, perform a physical inventory at least every six calendar months and within 45 days after the start of the ending inventory:

(i) Calculate the inventory difference, estimate the standard error of the inventory difference, and investigate and report any SEID estimate of 0.1 percent or more of active inventory and any ID that exceeds three times the standard error and 200 grams of plutonium or uranium-233 or 300 grams of uranium-235;

(ii) If required to perform an investigation pursuant to paragraph (f)(1)(i) of this section, evaluate the significance of the inventory difference relative to expected performance as determined from an analysis of an appropriate sequence of historical inventory differences;

(iii) Investigate and report to the appropriate NRC Region Office any difference that exceeds three times the standard deviation determined from the sequential analysis;

(iv) Perform a reinventory if directed to do so by the Commission; and

(v) Reconcile and adjust the plant and subsidiary book records to the results of the physical inventory.

(2) Implement policies, practices, and procedures designed to ensure the quality of physical inventories. These must include:

(i) Development of procedures for tamper-safing of containers or vaults containing SSNM not in process that include adequate controls to assure the validity of assigned SSNM values;

(ii) Maintenance of records of the quantities of SSNM added to and removed from process;

(iii) Requirements for signed documentation of all SSNM transfers between areas with different custodial responsibility that reflect all quantities of SSNM transferred;

(iv) Means for control of and accounting for internal transfer documents;

(v) Cutoff procedures for transfers and processing so that all quantities of SSNM are inventoried and none are inventoried more than once;

(vi) Cutoff procedures for records and reports so that all transfers for the inventory and material balance interval and no others are included in the records;

(vii) Inventory procedures for sealed sources and containers or vaults containing SSNM that assure reliable identification and quantification of contained SSNM;

(viii) Inventory procedures for in-process SSNM that provide for measurement of quantities not previously measured for element and isotope, as appropriate, and remeasurement of material previously measured but whose validity has not been assured by tamper-safing or equivalent protection; and

(ix) Written instructions for conducting physical inventories that

detail assignments, responsibilities, and preparation for and performance of an inventory.

(g) *Accounting.* The licensee shall establish auditable records sufficient to demonstrate that the requirements of §§ 74.53, 74.55, 74.57, and 74.59 have been met and retain those records for at least three years unless a longer retention period is required by Part 75 of this Chapter.

(h) *Internal control.* The licensee shall:

(1) Establish procedures for shipping and receiving SSNM that provide for:

(i) Accurate identification and measurement of the quantities shipped and received;

(ii) Review and evaluation of shipper/receiver differences on an individual container or lot basis, as appropriate, on a shipment basis, and on a batch basis when required by Part 75 of this Chapter;

(iii) Investigation and corrective action when shipper/receiver differences exceed twice the estimated standard deviation of the difference estimator and the larger of 0.5 percent of the amount of SSNM in the container, lot, or shipment, as appropriate, or 50 grams of SSNM; and

(iv) Documentation of shipper/receiver difference evaluations, investigations, and corrective actions.

(2) Establish a scrap control program that assures that:

(i) Internally generated scrap and scrap from other licensees or contractors is segregated until accountability is established; and

(ii) Any scrap measured with a standard deviation greater than five percent of the measured amount is recovered so that the results are segregated by inventory period and received within six months of the end of the inventory period in which the scrap was generated except where it can be demonstrated that the scrap measurement uncertainty will not cause noncompliance with § 74.59(e)(5).

(3) Incorporate checks and balances in the MC&A system sufficient to control the rate of human errors in material control and accounting information.

(4) Perform independent assessments at least every 12 months that assess the performance of the MC&A system, review its effectiveness, and document management's action on prior assessment recommendations. Assessments must include an evaluation of the measurement control program of any outside contractor laboratory performing MC&A measurements for a licensee, unless the contractor is also subject to the requirements of § 74.59(e).

(5) Assign custodial responsibility in a manner that ensures that such responsibility can be effectively executed for all SSNM possessed under license.

Dated at Washington, DC, this 20th day of March, 1987.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 87-6945 Filed 3-27-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-07-AD; Amdt. 39-5592]

Airworthiness Directives; Lockheed-Georgia Company Model 1329 Series Airplanes (JetStar), Equipped With Auxiliary Power Unit (APU) in Accordance With STC SA1043WE or STC SA3297WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Lockheed Model 1329 series airplanes equipped with an Auxiliary Power Unit (APU) in accordance with STC SA1043WE or STC SA3297WE, which requires the replacement of the APU fuel supply shutoff valve with a modified valve. This amendment is prompted by reports of several incidents of fuel fumes entering the passenger compartment through the APU air inlet and air conditioning system from APU fuel control leaks in the APU compartment. This condition, if not corrected, could result in fuel fumes entering the passenger compartment.

EFFECTIVE DATE: May 1, 1987.

ADDRESSES: The applicable service information may be obtained from AiResearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045 or Lockheed-Georgia Company, 86 South Cobb Drive, JetStar Customer Support, Dept. 64-26, Zone 668, Marietta, Georgia 30063. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) which requires inspection and modification of certain Lockheed Model 1329 series airplanes in accordance with the Accomplishment Instructions of AiResearch Aviation Company Service Bulletin (S/B) No. 11.37, dated December 19, 1984, or later approved revisions, was published as a Notice of Proposed Rulemaking (NPRM) in the Federal Register on February 28, 1986 (51 FR 7078). The comment period for the proposal closed on April 22, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

The manufacturer submitted the only comments. The FAA concurs with several suggested editorial changes, including the change of address for obtaining documents from Lockheed-Georgia, and the final rule has been revised accordingly.

The manufacturer suggested that the AD should be expanded to include other STC's and other aircraft which may also be affected by this same problem. The FAA does not concur. After further investigation, the FAA has determined that the other STC's and aircraft suggested by the manufacturer are not affected.

The manufacturer also questioned the need for the inclusion of paragraph B. of the AD, as the APU is ground-operable equipment only and it does not affect the airworthiness of the airplane. The FAA notes that Paragraph B. is included to provide for the issuance of special flight permits in those cases where it is necessary to operate an aircraft to a maintenance base for accomplishment of requirements of the AD following the expiration of the compliance period specified in the AD; without this authority, unless the APU installation is deactivated, the aircraft could not be so operated legally. The FAA has determined, therefore, that inclusion of this paragraph in the AD is appropriate.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the editorial changes previously noted.

It is estimated that 77 airplanes of U.S. registry will be affected by this AD, that

it will take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated at $726 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $68,222.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($886.). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-Georgia Company: Applies to Lockheed JetStar Model 1329 and JetStar Model 1329-25 series airplanes, equipped with an AiResearch Aviation Company Model GTCP 30-92 Auxiliary Power Unit (APU) in accordance with STC SA1043WE or STC SA3297WE, certificated in any category. Compliance required as indicated, unless previously accomplished.

To minimize the potential for fuel fumes entering the passenger compartment, accomplish the following:

A. Within the next 600 hours time-in-service or 12 months after the effective date of this AD, whichever occurs earlier:

1. Install an improved APU fuel supply shutoff valve, Valcor P/N V4700-130, in accordance with AiResearch Aviation Company Service Bulletin No. 11.37, dated December 19, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

2. Visually inspect the sealing joint of the fuel control governor cover for fuel leaks, seal (O-ring) extrusion, and cover distortion, and replace, if necessary, prior to further flight, in accordance with the AiResearch Aviation Company Service Bulletin mentioned above.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Lockheed-Georgia Company, 86 South Cobb Drive, JetStar Customer Support, Dept. 64-26, Zone 668, Marietta, Georgia, 30063; or AiResearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles California 90045. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective May 1, 1987.

Issued in Seattle, Washington, on March 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-6917 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 87-ANM-2]

Alteration of Control Zone, Portland, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action amends the present description of the Portland, Oregon, Control Zone. Due to a change to the Troutdale, Oregon, (Portland-Troutdale Airport) Control Zone description, action is necessary to redescribe the Portland Control Zone which abuts the Troutdale Control Zone. This action will not increase the size of the present control zone.

DATES: Effective 0901 UTC, June 4, 1987. Comments must be received on or before May 15, 1987.

ADDRESSES: Send comments on the rule to: Robert L. Brown, ANM-534, Federal Aviation Administration, Docket No. 87-ANM-2, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-534, Federal Aviation Administration, Docket No. 87-ANM-2, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2534.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves the redescription of the Portland, Oregon, Control Zone which abuts the Troutdale, Oregon, Control Zone and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to redescribe the Portland, Oregon, Control Zone which was made necessary due to a change to the Troutdale, Oregon, Control Zone description. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the Portland, Oregon, Control Zone. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is

not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g); (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Portland, Oregon, Control Zone [Amended]

Delete the word, ". . . excluding the portion within the Troutdale, Oregon, Control Zone when it is effective."

Issued in Seattle, Washington, on March 18, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-6918 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 97

[Docket No. 25215; Amdt. No. 1343]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference: Approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a); 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a

regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC. on March 20, 1987

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

PART 14—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31, RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective June 4, 1987

Taylorville, IL—Taylorville Muni, NDB RWY 18, Amdt. 2
Sikeston, MO—Sikeston Meml Muni, VOR RWY 20, Amdt. 2
Sikeston, MO—Sikeston Meml Muni, NDB RWY 20, Amdt. 7
Utica, NY—Oneida County, ILS RWY 33, Amdt. 1
Hamilton, OH—Hamilton-Fairfield, NDB-A, Orig
Youngstown, OH—Youngstown Muni, VOR RWY 19, Amdt. 17
Youngstown, OH—Youngstown Muni, NDB RWY 32, Amdt. 17
Youngstown, OH—Youngstown Muni, ILS RWY 14, Amdt. 4
Youngstown, OH—Youngstown Muni, ILS RWY 32, Amdt. 23
Youngstown, OH—Youngstown Muni, RADAR-1, Amdt. 10
Janesville, WI—Rock County, VOR RWY 4, Amdt. 25
Janesville, WI—Rock County, VOR/DME or TACAN RWY 22, Amdt. 3
Janesville, WI—Rock County, ILS RWY 4, Amdt. 10

. . . Effective May 7, 1987

Pell City, AL—St Clair County, VOR-A, Amdt. 7
Madera, CA—Madera Muni, VOR RWY 30, Amdt. 6
Marathon, FL—Marathon, NDB RWY 7, Amdt. 1
New Smyrna Beach, FL—New Smyrna Beach Muni, NDB RWY 29, Orig
Pensacola, FL—Pensacola Regional, RADAR-1, Amdt. 3
St. Petersburg-Clearwater, FL—St. Petersburg-Clearwater Intl, VOR RWY 17L, Amdt. 11
St. Petersburg-Clearwater, FL—St. Petersburg-Clearwater Intl, LOC BC RWY 35R, Amdt. 14
St. Petersburg-Clearwater, FL—St. Petersburg-Clearwater Intl, NDB RWY 17L, Amdt. 20
St. Petersburg-Clearwater, FL—St. Petersburg-Clearwater Intl, ILS RWY 17L, Amdt. 19
Cairo, GA—Cairo-Grady County, NDB RWY 12, Amdt. 3
Thomasville, GA—Thomasville Muni, VOR RWY 22, Amdt. 11, Cancelled
Welsh, LA—Welsh, VOR/DME RWY 6, Amdt. 3
Bedford, MA—Laurence G. Hanscom Fld, NDB RWY 29, Amdt. 4
Pascagoula, MS—Jackson County, VOR RWY 18, Amdt. 9
Pascagoula, MS—Jackson County, NDB-A, Amdt. 1
Pascagoula, MS—Jackson County, RNAV RWY 13, Amdt. 3
St. Louis, MO—Lambert/St Louis Intl, ILS RWY 30R, Amdt. 4
Matawan, NJ—Marlboro, VOR-A, Amdt. 1
Matawan, NJ—Marlboro, RNAV RWY 9, Amdt. 1
Old Bridge, NJ—Old Bridge, VOR RWY 24, Amdt. 3
Truth or Consequences, NM—Truth or Consequences Muni, VOR-A, Amdt. 9
Lumberton, NC—Lumberton Muni, VOR RWY 13, Amdt. 7
Waxhaw, NC—Jaars-Townsend, VOR/DME-A, Amdt. 3
Wilkesboro, NC—Wilkes County, NDB RWY 24, Amdt. 6
Tulsa, OK—Tulsa Intl, RNAV RWY 17L, Amdt. 3, Cancelled
Tulsa, OK—Tulsa Intl, RNAV RWY 35R, Amdt. 2, Cancelled
Altoona, PA—Altoona-Blair County, VOR-A, Amdt. 3
Altoona, PA—Altoona-Blair County, ILS RWY 20, Amdt. 4
Greenville, SC—Greenville Downtown, ILS RWY 36, Amdt. 27
North Myrtle Beach, SC—Grand Strand, ILS RWY 23, Amdt. 8
Knoxville, TN—Knoxville Downtown Island, VOR/DME-B, Amdt. 3
Houston, TX—Ellington Field, VOR/DME or TACAN RWY 4, Amdt. 1
Houston, TX—Ellington Field, VOR/DME or TACAN RWY 17R, Amdt. 1
Houston, TX—Ellington Field, VOR/DME or TACAN RWY 22, Amdt. 1
Houston, TX—Ellington Field, VOR/DME or TACAN RWY 35L, Amdt. 1
Houston, TX—Ellington Field, ILS RWY 17R, Amdt. 1
Houston, TX—Ellington Field, ILS RWY 35L, Amdt. 1
Port Isabel, TX—Port Isabel-Cameron County, VOR-A, Amdt. 4
Port Isabel, TX—Port Isabel-Cameron County, VOR/DME-B, Amdt. 1
Walla Walla, WA—Walla Walla City County, VOR RWY 2, Amdt. 10
Walla Walla, WA—Walla Walla City County, VOR RWY 16, Amdt. 11
Walla Walla, WA—Walla Walla City County, NDB RWY 20, Amdt. 5
Walla Walla, WA—Walla Walla City County, ILS RWY 20, Amdt. 5

. . . Effective April 9, 1987

Jefferson City, MO—Jefferson City Meml, VOR RWY 12, Amdt. 13, Cancelled
Jefferson City, MO—Jefferson City Meml, VOR RWY 30, Amdt. 10, Cancelled
Jefferson City, MO—Jefferson City Meml, LOC RWY 30, Amdt. 5
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, NDB-A, Amdt. 15
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, ILS RWY 4, Admt. 32
Wilkes-Barre/Scranton, PA—Wilkes-Barre/Scranton Intl, RADAR-1, Admt. 11

. . . Effective March 13, 1987

Clarksburg, WV—Benedum, ILS RWY 21, Amdt. 11

. . . Effective March 12, 1987

Providence, RI—Theodore-Francis Green State, ILS RWY 5R, Amdt. 12

The FAA published an Amendment in Docket No. 25203, Amdt. No. 1342 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 51 Page 8245; dated Tuesday, March 17, 1987) under Part 97 Effective 7 May 87 which is hereby amended as follows:

Honolulu, HI—Honolulu Intl, VOR or TACAN-A, Amdt. 1, Eff 7 MAY 87 *should read*
Honolulu, HI—Honolulu Intl, VOR or TACAN-A, Amdt. 1, Eff 9 APR 87
Honolulu, HI—Honolulu Intl, VOR/DME or TACAN-B, Amdt. 1, Eff 7 MAY 87 *should read*
Honolulu, HI—Honolulu Intl, VOR/DME or TACAN-B, Amdt. 1, Eff 9 APR 87
Honolulu, HI—Honolulu Intl, LDA/DME RWY 26L, Amdt. 5, Eff 7 MAY 87 *should read*
Honolulu, HI—Honolulu Intl, LDA/DME RWY 26L, Amdt. 5, Eff 9 APR 87
Honolulu, HI—Honolulu Intl, NDB RWY 8L, Amdt. 19, Eff 7 MAY 87 *should read*
Honolulu, HI—Honolulu Intl, NDB RWY 8L, Amdt. 19, Eff 9 APR 87
Honolulu, HI—Honolulu Intl, ILS RWY 4R, Amdt. 11, Eff 7 MAY 87 *should read*
Honolulu, HI—Honolulu Intl, ILS RWY 4R, Amdt. 11, Eff 9 APR 87
Honolulu, HI—Honolulu Intl, ILS RWY 8L, Amdt. 21, Eff 7 MAY 87 *should read*
Honolulu, HI, Honolulu Intl, ILS RWY 8L, Amdt. 21, Eff 9 APR 87

§ 97.25 [Amended]

The FAA published an Amendment in Docket No. 25203, Amdt. No. 1342 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 51 Page 8245; dated Tuesday, March 17, 1987) under § 97.25 Effective 7 May 87 which is hereby amended as follows:

St. Mary's, AK—St. Mary's, LOC/DME RWY 16 Amdt. 1, Eff 7 MAY 87 *should read* St. Mary's, AK, St. Mary's, LOC/DME RWY 16 Amdt. 1, Eff 24 FEB 87

[FR Doc. 87-6919 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 6 and 178

[T.D. 87-42]

Overflight Exemptions for Private Aircraft

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim rule; solicitation of comments.

SUMMARY: This document sets forth interim amendments to the Customs Regulations that modify the overflight exemption program for private aircraft. If exempted, private aircraft arriving in the U.S. from foreign countries in the Eastern Hemisphere south of the U.S. may overfly a Customs designated airport along the southern U.S. border and proceed to another, typically more interior, airport where Customs inspectional services are available. The regulations provide for the continuation of overflight exemptions but with more stringent application procedures. Also, new restrictions on the actual conduct of overflights such as equipment necessary on the aircraft and minimum flying altitudes will enhance narcotic enforcement efforts by aiding in radar tracking of aircraft using overflight exemptions.

This action is being taken as part of Customs continuing efforts to interdict narcotic smuggling in the southern portion of the U.S. The principal mode of transportation used to smuggle cocaine and cocaine products into the U.S. is general aviation aircraft and the principal source of such products is South America. These regulations will close a loophole in interdiction efforts concerning a large volume of air traffic traveling from the direction of narcotic source countries. Aircraft that are allowed to bypass Customs inspection at or very near the U.S. border can be used by smugglers for illegal activities between the border and more interior inspectional sites. These regulations will simplify the tracking of aircraft, reduce the possibility of air drops or "touch and go" smuggling by aircraft with overflight exemptions, and allow the reallocation of resources now spent on processing overflight exemptions into active drug interdiction efforts.

DATES: Effective March 30, 1987. Written comments must be received on or before May 29, 1987.

ADDRESS: Written comments (preferably in triplicate) must be submitted to and may be inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Dennis Benjamin, Office of Passenger Enforcement and Facilitation (202-566-5608).

SUPPLEMENTARY INFORMATION:

Background

As part of Customs effort to combat the problem of drug smuggling by air, in 1975 the Customs Regulations were amended to add a new § 6.14 (19 CFR 6.14), that provides in part that private aircraft arriving in the U.S. via the U.S.-Mexican border must provide a notice of intended arrival with Customs (T.D. 75-201, 40 FR 33203). The section further provides that these private aircraft must land at any one of the designated airports near the U.S.-Mexican border. The purpose of this regulation was to provide Customs with increased enforcement efficiency by providing tight control over air traffic arriving from the direction of countries that are major sources of illegal drugs destined for the U.S.

In our diligence to fight the national epidemic of illegal drugs, Customs has amended § 6.14, Customs Regulations, several times since 1975. Amendments have included extending coverage to private aircraft arriving via the Pacific, Gulf of Mexico, or Atlantic coasts (T.D. 83-192; 48 FR 41381); expanding coverage by modifying the definition of private aircraft (T.D. 84-236; 49 FR 46885); and extending the coverage to include some flights arriving from Puerto Rico and all flights arriving from the U.S. Virgin Islands, increasing from 15 minutes to one hour the minimum time required for notice to be given prior to penetrating U.S. air space, and requiring aircraft seeking exemption from landing requirements to be equipped with functioning transponders (T.D. 86-72; 51 FR 11004).

Most recently Customs amended § 6.14(g) by removing San Diego International Airport (Lindbergh Field) from the list of designated airports. Customs discovered that smugglers were taking advantage of Lindbergh Field's location 15 miles from the U.S.-Mexican border to engage in smuggling after crossing the border, but before reporting for inspection at Lindbergh Field. (T.D. 86-146; 51 FR 27836).

Customs now finds it necessary to amend § 6.14(f), concerning exemptions from the landing requirements. These exemptions, called overflight exemptions, allow private aircraft arriving in the U.S. from foreign countries in the Western Hemisphere south of the U.S., to overfly a Customs-designated airport along the southern border and proceed to another, typically more interior, airport where Customs inspectional services are available.

Customs is of the opinion that the existing overflight exemption program constitutes an unnecessary loophole in our drug interdiction efforts. The principal source of cocaine and cocaine products is South America, and the principal mode of transportation used to smuggle such contraband into the U.S. is general aviation aircraft. By enhancing the overflight exemption program, Customs will achieve the tight control over air traffic coming from the direction of major drug source countries that is necessary to effectively combat the epidemic of illegal drugs afflicting the U.S. When aircraft are allowed to bypass Customs inspection at or very near the border, smugglers have excessive opportunity to engage in illegal activities between the border and more interior inspectional sites.

Smugglers can take advantage of an overflight exemption and engage in "touch and go" or air drop smuggling of illegal drugs and contraband. "Touch and go" smuggling involves aircraft crossing the U.S. border and landing and quickly unloading illegal drugs or contraband before flying to the airport at which they will report for inspection. Air drop smuggling involves flying very low over some point between the border and the airport at which they will report for inspection, pushing illegal drugs or contraband out of the aircraft to be retrieved on the ground, and continuing on to the airport.

Modified Procedure

The application procedure for overflight exemptions is being modified to allow only U.S. based companies or individuals to apply. This is necessary because Customs must thoroughly investigate the background of all applicants and only has access to such detailed information on those that are U.S. based. Also, individual applications

from each pilot or crewmember intended to participate in an overflight must accompany the general overflight application. To enhance enforcement efforts, applications will only be considered from applicants flying aircraft equipped with mode C transponders that will be able to conduct overflights at a minimum altitude of 12,500 feet mean sea level. This will enable accurate radar identification and tracking of overflight aircraft.

The modification of the overflight exemption program will benefit Customs in four principal ways. (1) Tracking of general aviation aircraft will be simplified. With a reduction in the number of overflight exemptions, at least 92 percent of the general aviation aircraft arriving from a foreign country crossing the southern border will have to make an initial landing for inspection at the designated airports before proceeding to their designation. (2) Parties holding an overflight exemption would no longer have a potential advantage in smuggling through the use of their overflight exemptions to air-drop illegal drugs and contraband or to "touch and go" before reporting for Customs inspection. (3) Customs would be able to concentrate its specialized aircraft inspection resources at the designated airports. (4) Customs would save a considerable number of manhours per year now spent processing overflight exemption applications since the modified overflight program will result in fewer applications. The time saved by Customs officers in not processing applications could be re-deployed to interdict narcotics smugglers.

Customs is aware of the inconvenience that these modifications will cause affected parties. However, we are of the opinion that the increasing use of general aviation aircraft to smuggle narcotics into the U.S. warrants the scope and immediacy of our actions. Accordingly, commencing on the effective date of these interim regulations, all applications will be judged by the criteria set forth in this document.

Comments

Before adopting the interim regulations as a final rule, consideration will be given to any written comments (preferably in triplicate) timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

Inapplicability of Notice and Delayed Effective Date Requirements

The severity of the drug problem in the U.S. is well documented. Customs is always looking for weak links in our drug interdiction efforts and when found, seeks to correct them as expeditiously as possible. The overflight exemption program is providing a loophole in our enforcement efforts that could be allowing illegal drugs and contraband to enter the U.S. Therefore, Customs has determined that it would be contrary to the public interest to unnecessarily delay the modifications to the overflight exemption program contained in the interim regulations. Accordingly, it has been determined that pursuant to 5 U.S.C. 553(b)(B), notice and public procedure are contrary to the public interest. For the same reasons, a delayed effective date is being dispensed with in accordance with 5 U.S.C. 553(d)(3).

Executive Order 12291

This is not a "major rule" as defined in § 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Under the provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that these amendments will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The reporting requirements in these interim regulations are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501). Accordingly, the document has been submitted to and approved by the Office of Management and Budget and assigned control number 1515–0153.

List of Subjects

19 CFR Part 6

Customs duties and inspection, Imports, Air Carriers, Aircraft, Airports.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

Parts 6 and 178, Customs Regulations (19 CFR Parts 6, 178), are amended as set forth below:

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 et seq.

§ 178.2 [Amended]

2. Section 178.2 is amended by inserting ", 1515–0153", under the column headed "OMB Control No.", following the number "1515–0098", opposite the listing for § 6.14.

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624; 49 U.S.C. 1474, 1509.

2. Section 6.14(f) is revised to read as follows:

§ 6.14 Private aircraft arriving from areas south of the U.S.

* * * * *

(f) *Exemptions from the landing requirement.* (1) Companies principally headquartered in the U.S. or individuals principally residing in the U.S. that have operational control over U.S. registered aircraft required to furnish a notice of intended arrival in compliance with paragraphs (a), (b), or (c) of this section may request an exemption from the landing requirement specified in paragraph (d) of this section. Approval of the request and granting of authority to be exempted from the landing requirement specified in paragraph (d) are at the discretion of the district director. The request shall be submitted to the district director in charge of the airport at which the majority of Customs processing of overflights is desired by the applicant. Requests shall be submitted to the appropriate district director at least 30 days before the anticipated first arrival if the request is for an exemption covering a number of flights over a period of 1 year, or at least 15 days before the anticipated arrival if the request is for a single flight. The request must be signed by an officer of the company or by the individual, be witnessed by a notary public or Customs officer, and include the following information (Note—Where the Social Security number is requested, furnishing of the SSN is voluntary. The authority to collect the SSN is 19 U.S.C. 66 and 1624. The primary purpose for requesting the SSN is to assist in ascertaining the identity of the individual so as to assure that only law

abiding persons will be granted permission to land at interior airports in the U.S. without first landing at one of the airports designated in § 6.14(g). The SSN will be made available to Customs personnel on a need to know basis. Failure to provide the SSN may result in a delay in processing of the application):

(i) Aircraft U.S. registration number(s) and manufacturer's serial number(s) for all aircraft owned or operated by the applicant that will be utilizing the overflight exemption;

(ii) Identification information for each aircraft including class, manufacturer, type, number, color scheme, and type of engine (e.g., turbojet, turbofan, turboprop, reciprocating, helicopter, etc.);

(iii) A statement that the aircraft is equipped with a functioning mode C (altitude reporting) transponder which will be in use during overflight, that the overflights will be made in accord with instrument flight rules (IFR), and that the overflights will be made at altitudes at or above 12,500 feet mean sea level (unless otherwise instructed by Federal Aviation Administration controllers);

(iv) Name and address of the applicant operating the aircraft (if the applicant is a business entity, the address of the headquarters of the business [include state of incorporation if applicable], and the names, addresses, Social Security numbers, and dates of birth of the officers of the business); name, address, Social Security number, and date of birth of the company officer or individual signing the application. If the aircraft is operated under a lease, the name, address, Social Security number, and date of birth of the owner if an individual, or the address of the headquarters of the business [include state of incorporation if applicable], and the names, addresses, Social Security numbers, and dates of birth of the officers of the business;

(v) Individual, signed applications from each usual or anticipated pilot or crewmember for all aircraft for which an overflight exemption is sought stating name, address, Social Security number, Federal Aviation Administration certificate number, and place and date of birth;

(vi) A statement from the individual signing the application as specified in paragraph (f)(1)(iv) of this section that the pilot(s) and crewmember(s) responding to paragraph (f)(1)(v) of this section are those intended to conduct overflights, and that to the best of the individual's knowledge, the information supplied in response to paragraph (f)(1)(v) of this section is accurate;

(vii) Names, addresses, Social Security numbers, and dates of birth for all usual or anticipated passengers (An approved passenger must be on board to utilize the overflight exemption);

(viii) Description of the usual or anticipated baggage or cargo;

(ix) Description of the applicant's usual business activity;

(x) Name(s) of the airport(s) of intended first landing in the U.S. Actual overflights will only be permitted to specific approved airports. (See paragraph (f)(4)(iv) of this section);

(xi) Foreign place or places from which flight(s) will usually originate; and

(xii) Reasons for request for overflight exemption.

(2) If a private aircraft is granted an exemption from the landing requirement specified in paragraph (d) of this section, the aircraft must furnish notice to Customs in accordance with paragraph (d) of this section at least 60 minutes before:

(i) Crossing into the U.S. over a point on the Pacific Coast north of 33 degrees north latitude; or

(ii) Crossing into the U.S. over a point of the Gulf of Mexico or Atlantic Coasts north of 30 degrees north latitude; or

(iii) Crossing into the U.S. over the Southwestern land border (defined as between Brownsville, Texas, and San Diego, California). Southwestern land border crossings must be made while flying in Federal Aviation Administration published airways.

(iv) The notice shall be given to a designated airport specified in paragraph (g) of this section. The notice may be furnished directly to Customs by telephone, radio, or other means, or may be furnished through the Federal Aviation Administration to Customs. If notice is furnished pursuant to this paragraph, notice pursuant to paragraphs (a) and (b) of this section is unnecessary.

(3) All overflights must be conducted pursuant to an instrument flight plan filed with the Federal Aviation Administration prior to the commencement of the overflight.

(4) The owner or aircraft commander of a private aircraft granted an exemption from the landing requirement must:

(i) Notify Customs of a change of Federal Aviation Administration registration number for the aircraft;

(ii) Notify Customs of the sale, theft, modification, or destruction of the aircraft;

(iii) Notify Customs of changes of usual or anticipated pilots or crewmembers as specified in paragraph (f)(l)(v) of this section. Every pilot and crewmember participating in an overflight must have prior Customs approval either through initial application and approval, or through a supplemental application submitted by the new pilot or crewmember and approved by Customs before commencement of the pilot's or crewmember's first overflight.

(iv) Request permission from Customs to conduct an overflight to an airport not listed in the initial overflight application as specified in paragraph (f)(l)(x) of this section. The request must be directed to the district director who approved the initial request for an overflight exemption.

(v) Retain copies of the initial request for an overflight exemption, all supplemental applications from pilots or crewmembers, and all requests for additional landing privileges, as well as a copy of the letter from Customs of approval for each of these requests. The copies must be carried on board any aircraft during the conduct of an overflight.

(vi) The notifications specified in this paragraph must be given to Customs within 5-working days of the change, sale, theft, modification, or destruction, or before a flight for which there is an exemption, whichever occurs earlier.

(5) Applicants for overflight exemptions must agree to make the subject aircraft available for inspection by Customs to determine if the aircraft is capable of meeting Customs requirements for the proper conduct of overflight. Inspections may be conducted during the review of an initial application or at any time during the term of an overflight exemption.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: March 12, 1987.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 87-7007 Filed 3-27-87; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[T.D. 8132]

Income Tax; Safe Harbor for Certain Installments of Corporate Estimated Tax Due Before July 1, 1987

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations providing a safe harbor for certain installments of corporate estimated tax due before July 1, 1987. The temporary regulations permit a corporation to compute its installment payment or payments due before that date by reference to its taxable income for the preceding year if a subsequent installment payment brings the corporation's aggregate payments for the year up to a specified minimum amount. The regulations assist corporations in complying with the law despite the uncertainty arising from the recent enactment of the Tax Reform Act of 1986 and the Superfund Amendments and Reauthorization Act of 1986.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia E. Grigsby of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T) (202-343-0232, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The Tax Reform Act of 1986 (Pub. L. 99-514, 100 Stat. 2085), enacted October 22, 1986, and the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, 100 Stat. 1760), enacted October 17, 1986, made changes to the Internal Revenue Code that substantially affect the determination of corporate tax liability. For example, the Tax Reform Act substantially revised Code Section 55 and added new section 263A, relating to capitalization and inclusion in inventory costs of certain expenses. The Tax Reform Act requires corporations to take the alternative minimum tax under section 55 into account in computing their estimated tax payments. The Superfund Amendments and Reauthorization Act added new Code section 59A, relating to environmental tax. That Act requires corporations to take the tax under section 59A into account in computing their estimated tax payments. Sections 55 and 59A are generally effective for taxable years beginning after December 31, 1986. Section 263A generally applies to costs incurred after December 31, 1986, in taxable years ending after that date, except that, in the case of inventory property, section 263A applies to costs incured in taxable years beginning after December 31, 1986.

Because of the substantial number of changes to the Code, corporations may be uncertain about the proper tax treatment of numerous items that they must take into account in determining their estimated tax liability for estimated tax payments due before July 1, 1987. As a result, many corporations are concerned about possible penalties under section 6655 for failure to make adequate installment payments of estimated tax ("the underpayment penalty"). Although some corporations can avoid underpayment penalties by computing their estimates tax liability on the basis of their tax or their income for the preceding year, these special rules are not available to a "large corporation," that is, a corporation with $1,000,000 or more of taxable income in any of its last three taxable years. For many "large corporations," the only practical method of computing installment payments of estimated tax that precludes an underpayment penalty is the "annualization" method.Under the "annualization" method a corporation projects its taxable income for the entire year on the basis of its taxable income for the annualization period. However, because of the substantial changes to the Code many corporations may find it difficult to compute in a timely manner their taxable income for the annualization periods in the first part of the year.

Because of the circumstances described above, the Commissioner of Internal Revenue has determined that proper administration of the tax law requires that corporations using the annualization exception be provided with a special "safe harbor" for the computation of installment payments of corporate estimated tax due before July 1, 1987.

Explanation of Provisions

The temporary regulations provide a safe harbor for certain installment payments of corporate estimated tax due before July 1, 1987. The safe harbor is computer by reference to the regular tax to which the corporation is subject, but the safe harbor payment is treated as including any alternative minimum tax or environmental tax that the corporation is required to include in its estimated tax payments. The safe harbor is available only with respect to installment payments for taxable years beginning after December 31, 1986.

Under the safe harbor provided in the temporary regulations, a corporation using the "annualization" exception provided in section 6655(d)(3) may compute any installment payment of estimated tax due before July 1, 1987, by assuming that its annualized taxable income for the current year equals or exceeds 120 percent of the taxable income shown on its return for the preceding year (adjusted to eliminate any net operating loss deduction). The foreign tax credit for purposes of computing the amount of the safe harbor installment payment is determined on the basis of the foreign tax credit allowed on the return for the proceding year (adjusted for the reduction in tax rates for taxable years beginning after December 31, 1986, and other changes in the foreign tax credit provisions).

The safe harbor refers to the taxable income shown on the return for the preceding year. A corporation that has obtained an extension of time to file its return for the preceding year may be required to make one or two installment payments of estimate tax for the current year before it files that return. However, a corporation must estimate its taxable income to determine the tentative tax that it must show on Form 7004, Application for Automatic Extension of Time to File Corporation Income Tax Return. Thus, although the corporation may not yet have filed a return, it will have the information that it needs for purposes of the safe harbor.

A corporation may use the safe harbor only if it makes a timely subsequent installment payment of estimated taxes that, when added to the earlier installment payment or payments, equals or exceeds the lesser of (i) 45 percent of the tax shown on its return for the year (67.5 percent, if the subsequent installment is the third installment payment for the year) or (ii) the amount required to satisfy the annualization exception of section 6655(d)(3) (computed without regard to the safe harbor). For purposes of the temporary regulations, the subsequent installment payment is the first installment payment of estimated tax that is not computed under the safe harbor. For example, if a calendar year corporation uses the safe harbor for the first installment payment due April 15, 1987, and does not use the safe harbor for its second installment payment due June 15, 1987, the corporation's second installment payment is required to equal or exceed:

(i) An amount equal to 45% of the tax shown on its return for the year, or

(ii) An amount sufficient to avoid an underpayment penalty under section 6655(d)(3) (applied without regard to the safe harbor).

If a calendar year corporation uses the safe harbor for both the first and second installment payments, the corporation's third installment payment due September 15, 1987, is required to equal or exceed:

(i) An amount equal to 67.5% of the tax shown on its return for the year, or

(ii) An amount sufficient to avoid an underpayment penalty under section 6655(d)(3) (applied without regard to the safe harbor).

If a corporation fails to make the necessary subsequent installment payment, it may be subject to the underpayment penalty under the usual rules for any earlier installment payment. However, § 1.6655–2T(c)(5) of the temporary regulations includes a limitation on the aggregate amount of penalty that may be assessed on any earlier installment payments. The limitation equals the penalty that would be assessed on the deficiency in the subsequent installment payment if the deficiency were treated as an underpayment of estimated tax.

Nonapplicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Analysis

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these temporary regulations is Paul A. Francis, of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, on matters of both substance and style.

List of Subjects in 26 CFR 1.6654–1—1.6696–1

Income taxes, Administration and procedure, Penalties, Additions to tax.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805.* * *

Par. 2. New § 1.6655–2T is added immediately after § 1.6655–2 to read as follows:

§ 1.6655–2T Safe harbor for certain installments of tax due before July 1, 1987 (temporary).

(a) *Applicability*—(1) *Safe harbor.* The safe harbor provided by paragraph (b) of this section applies only to installment payments of corporate estimated tax required to be made before July 1, 1987, for taxable years beginning in 1987.

(2) *Subsequent payment.* The requirement that a corporation using the safe harbor provided by this section make a timely subsequent installment payment in accordance with paragraph (c) of this section applies with respect to the corporation's first installment payment ("the subsequent installment payment") of estimated tax required to be made after the last payment computed under the safe harbor rule.

(3) *Section inapplicable to new corporation.* This section shall not apply in the case of any corporation whose first taxable year began after December 31, 1986.

(b) *Safe harbor for use of annualization exception*—(1) *In general.* A corporation computing an installment payment of estimated tax using the annualization exception provided in section 6655(d)(3) will not be subject to an addition to tax under section 6655 with respect to an installment payment of estimated tax that satisfies the requirements of this paragraph (b), except as provided in paragraph (c) of this section. For purposes of this paragraph (b)—

(i) A corporation shall assume that its annualized taxable income for the current year equals or exceeds 120 percent of the taxable income shown on its return for the preceding taxable year, and

(ii) The term "tax" as used in section 6655(d)(3) shall be defined by reference to section 6655(f) without regard to section 6655(f)(1) (B) and (C) (that is, without regard to the alternative minimum tax imposed by section 55 or the environmental tax imposed by section 59A).

(2) *Special rules for determining taxable income for preceding year.* For purposes of paragraph (b)(1)(i) of this section, the taxable income shown on the return of the corporation for its preceding taxable year shall be—

(i) Adjusted to eliminate any net operating loss deduction taken into account in that preceding year, and

(ii) Annualized, if that preceding year was of less than 12 months.

(3) *Credits taken into account*—(i) *In general.* In computing the amount of an installment payment under paragraph (b)(1) of this section, the corporation may take into account any credits against tax that are permitted to be taken into account under section 6655(d)(3) for the current taxable year.

(ii) *Foreign tax credit.* For purposes of paragraph (b)(3)(i) of this section, the amount of foreign tax credit that is permitted to be taken into account for the current taxable year is equal to the foreign tax credit allowed for the preceding taxable year multiplied by the fraction specified in the following sentence. The numerator of the fraction is the highest tax rate applicable for the taxable year under section 11, as adjusted under section 15, and the denominator is 46 percent. This alternative computation of the foreign tax credit is applicable only for purposes of computing a safe harbor installment payment under paragraph (b) of this section and cannot be applied for other estimated tax purposes.

(4) *Net operating loss carryover.* A corporation that has a net operating loss carryover as of the first day of the taxable year for which the estimated tax is being paid may use that carryover to reduce the annualized taxable income referred to in paragraph (b)(1)(i) of this section. For example, if a corporation with a net operating loss carryover of $3,000 had taxable income of $10,000 in 1986, it may use the carryover to reduce its annualized taxable income to $9,000, (($10,000 × 120%) − 3,000).

(c) *Corporation must bring aggregate payments to required level through timely subsequent installment*—(1) *In general.* A corporation using the safe harbor provided by paragraph (b) of this section shall make a timely subsequent installment payment of estimated tax in an amount sufficient to satisfy the requirements of either paragraph (c)(3) or paragraph (c)(4) of this section.

(2) *Applicable percentage.* For purposes of this paragraph (c), the applicable percentage is—

(i) 45 percent (50 percent × 90 percent), if the subsequent installment payment is the second installment payment for the taxable year, or

(ii) 67.5 percent (75 percent × 90 percent), if the subsequent installment payment is the third installment payment for the taxable year.

(3) *Annualization exception.* The subsequent installment payment of a corporation satisfies the requirements of this paragraph (c)(3) if the amount of the payment is sufficient to satisfy the requirements of section 6655(d)(3) with respect to all applicable taxes specified in section 6655(f). Thus, the corporation must determine its annualized taxable income under section 6655(d)(3)(A) (ii) or (iii), whichever is applicable, and compute the resulting tax. The resulting

tax shall include the alternative minimum tax under section 55 and the environmental tax under section 59A and may take credits into account to the extent permitted under section 6655(d)(3). The sum of this subsequent installment payment and the earlier installment payment or payments of the corporation must equal or exceed the applicable percentage of the tax so computed. In determining whether the corporation has satisfied the requirements of section 6655(d)(3)(A)(ii) or (iii) with respect to the subsequent installment, the safe harbor provided in paragraph (b)(1) of this section shall not apply.

(4) *Installment payments equal to applicable percentage of tax shown on return.* The subsequent installment payment of a corporation satisfies the requirement of this paragraph (c)(4) if the sum of that payment and the earlier installment payment or payments of the corporation equals or exceeds the applicable percentage of the tax shown on the return of the corporation for the taxable year to which the installment payments relate. The tax shown on the return includes all taxes specified in section 6655(f).

(5) *Consequence of corporation's failure to satisfy requirements for subsequent installment*—(i) *In general.* If a corporation fails to satisfy the requirements set out in this paragraph (c), the corporation shall lose the benefit of the safe harbor provided by paragraph (b)(1) of this section.

(ii) *Limit on penalty.* The aggregate underpayment penalty with respect to any installment payment or payments for which a corporation loses the benefit of the safe harbor under paragraph (c)(5)(i) of this section shall be limited to the "shortfall penalty amount." The shortfall penalty amount is the penalty that would be imposed under section 6655(a) if there were an underpayment of the subsequent installment payment equal to the excess of—

(A) The amount required to be paid, as determined under this paragraph (c), on or before the due date of the subsequent installment payment, over

(B) The amount actually paid on or before such date with respect to the subsequent installment payment.

For purposes of this determination, the period of the underpayment shall run from the due date of the subsequent installment payment until the earlier of the dates specified in section 6655(c)(1) or (2).

(iii) *Example.* The provisions of this paragraph (c)(5) may be illustrated by the following example:

Example. Corporation M, which uses the calendar year as its taxable year, relies on the safe harbor provided by paragraph (b) of this section for its first two installment payments of estimated tax for 1987. M is required by this paragraph (c) to make a timely subsequent installment payment of $1,000,000 by September 15, 1987, but M's actual installment payment by that date is only $990,000. Because of this shortfall, M loses the benefit of the safe harbor and is subject to underpayment penalties with respect to the first two installments. The aggregate penalties with respect to those two installments, however, cannot exceed the amount of the underpayment penalty to which M would be subject if there were an underpayment of $10,000 with respect to the September 15, 1987, installment payment. Such penalties are independent of any penalty that may apply with respect to M's third installment payment under the normal rules of section 6655.

(d) *Example.* The provisions of this section may be illustrated by the following example:

Example. (i) Corporation X (which is not a life insurance company) uses as its taxable year a fiscal year ending on January 31 and is required to pay an installment of estimated income tax by May 15, 1987, for its taxable year beginning on February 1, 1987. On its return for the taxable year ending January 31, 1987, which was a year of 12 months, X reported taxable income of $10,000,000 ($9,000,000 of which was ordinary income and $1,000,000 of which was net capital gain) and did not claim any net operating loss deduction. As of February 1, 1987, X has no net operating loss carryforwards and no credit carryforwards. X has no credits against tax that are permitted to be taken into account under section 6655(d)(3) for 1987. If X uses the safe harbor provided in paragraph (b)(1) of this section, X must make by May 15, 1987, an installment payment of estimated tax of at least $1,037,836, computed as follows:

(1) Taxable income shown on return for taxable year ending on January 31, 1987	$10,000,000
(2) Annualized taxable income for taxable year ending January 31, 1988, determined pursuant to paragraph (b)(1) of this section (Item (1)x120%)	$12,000,000
(Note: 120%xordinary income of $9,000,000=$10,800,000; 120%xnet capital gain of $1,000,000=$1,200,000)	
(3) Tax on annualized taxable income (Item 2) using rates under section 11 and 1201, taking into account section 15, applicable to the taxable year ending January 31, 1988	$4,612,603
(4) Amount described in section 6655(d)(3)(A)(i) (Item (3)x22.5%)	$1,037,836

(ii) To preclude imposition of an addition to tax under section 6655 with respect to its May 15, 1987, installment payment, X must make by July 15, 1987, a second installment payment of estimated tax sufficient to bring its aggregate payments to the minimum level required under paragraph (c) of this section.

(iii) X may satisfy the requirements of paragraph (c)(3) of this section by making a second installment payment sufficient to bring X within the exception provided in section 6655(d)(3). Thus, if X determines under that section that the aggregate of X's installment payments of estimated tax by July 15, 1987, must equal at least $3,000,000, X may obtain the benefit of the safe harbor provided in paragraph (b)(1) of this section with respect to the May 15, 1987, installment payment by making a timely second installment payment of $1,962,164 ($3,000,000—$1,037,836).

(iv) Even if X fails to satisfy the requirements of paragraph (c)(3) of this section, X may obtain the benefit of the safe harbor for the May 15, 1987, installment payment if X's second installment payment, when aggregated with the first payment, equals at least 45 percent of the tax (including the alternative minimum tax under section 55 and the environmental tax under section 59A) shown on X's return for X's taxable year beginning on February 1, 1987. Thus, if the tax shown on that return is $6,000,000, X's second installment payment under paragraph (c)(4) of this section must be at least $1,662,164, computed as follows:

45 percent of $6,000,000	$2,700,000
less first payment	1,037,836
Minimum second installment	$1,662,164

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: March 24, 1987.

J. Roger Mentz,

Assistant Secretary of the Treasury.

[FR Doc. 87-6719 Filed 3-24-87; 3:17 pm]

BILLING CODE 4830-01-M

---

26 CFR Parts 1 and 602

[T.D. 8131]

Income tax, Capitalization and Inclusion in Inventory of Certain Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary Regulations.

SUMMARY: This document contains temporary regulations relating to accounting for costs incurred in producing and acquiring property for resale. In addition, the text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the Notice of Proposed Rulemaking in the proposed rules section of this issue of the **Federal Register**. Changes to the applicable tax law were made by the Tax Reform Act of 1986.

DATES: The amendments are effective for costs incurred after December 31, 1986 or, in the case of inventories, for taxable years beginning after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Paulette C. Galanko of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T), (202) 566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under sections 174, 263, 263A, 446, 471, and 1502 of the Internal Revenue Code of 1986. These amendments conform the regulations to the requirements of section 803 of the Tax Reform Act of 1986 (Pub. L. 99-514), 100 Stat. 2085 (the "Act"). The temporary regulations contained in this document will remain in effect until additional temporary or final regulations are published in the **Federal Register**.

Uniform Costing Rules

Under prior law, the type and amount of costs required to be absorbed or capitalized by taxpayers engaged in the production of property were determined under various sections of the Internal Revenue Code and regulations. As a result, different rules applied to the costs incurred in the production of property depending on the type of property produced and the intended use of the property in connection with the taxpayer's activities. In some cases, costs incurred in producing property were permitted to be deducted currently, rather than being properly matched with the future income associated with that property. Thus, for example, production costs were permitted to be deducted currently, rather than being recovered when the related property was sold or used in the course of the taxpayer's trade or business. Similarly, costs incurred in the acquiring, handling, and storage of property (including property acquired by the taxpayer for resale to others) were frequently allowed to be deducted currently rather than being properly matched with the appropriate income.

In response to this disparity in treatment, section 263A was added to the Code to provide a uniform set of rules to be applied in determining the costs required to be capitalized or included in inventory costs. (For purposes of this preamble and the regulations, the term "capitalize" shall, except as provided to the contrary, denote the capitalization of costs, i.e., the charging of costs to capital account or basis, as well as the addition or absorption of costs to items of inventory). Except as provided, these rules apply to all costs incurred in connection with the production of real and personal tangible property to be held in inventory or held for sale in the ordinary course of business. The rules also apply to the production of other property, including property or improvements to property constructed by a taxpayer for use in its trade or business or in an activity engaged in for profit. Finally, in the case of property acquired for resale, these rules generally apply to costs incurred for the storage, purchase, repackaging or processing of such property, including an allocable amount of general and administrative costs.

Treatment of Certain Costs

The temporary regulations do not apply to intangible drilling and development costs of oil and gas or geothermal wells allowable as a deduction under section 263(c) or development costs of mineral properties allowable as a deduction under sections 616(a) and 617(a) of the Code.

Similarly, the temporary regulations generally do not apply to property produced by a taxpayer pursuant to a long-term contract. Section 460 of the Code, enacted into law under section 804 of the Act, determines the federal income tax treatment of long-term contracts. Nevertheless, these temporary regulations provide guidance with respect to two aspects of the treatment of long-term contracts. First section 460(c)(3) of the Code provides that production interest shall be allocated to long-term contracts in the same manner as interest is allocated to property produced by the taxpayer under section 263A(f). Second, these regulations apply to costs incurred by a taxpayer (*e.g.*, interest and administrative costs), with respect to property produced by a contractor for the taxpayer under a long-term contract.

Section 263A does not apply to the growing of timber as defined under prior law. For this purpose, the definition of timber includes evergreen trees that are more than six years old when severed from the roots (whether or not such trees are sold for ornamental purposes). In the case of timber, the law in effect prior to the enactment of section 263A is to continue to apply with respect to the determination of the costs that are to be treated as deductible and those that are required to be charged to capital accounts.

Interest

Interest expense paid or incurred in the course of production is included in the costs required to be capitalized under section 263A. The temporary regulations contain general rules relating to the allocation of interest with respect to production activities under the "avoided cost" concept. Detailed regulations relating specifically to the allocation of interest expense under section 263A will be issued in a separate document.

Tangible and Intangible Property

In the case of production activities, the rules contained in the temporary regulations apply to costs allocable to the production of real and tangible personal property. With respect to costs incurred in connection with property acquired for resale, the rules apply to both tangible and intangible property. (For example, the rules contained in the temporary regulations apply to persons acquiring securities or commodity contracts described in section 1221(1) for resale to others). For purposes of these regulations, films, recordings, video tapes, books and other similar property are treated as tangible personal property, and thus are subject to the capitalization rules regarding production of tangible personal property. These regulations are not intended to provide guidance (under prior or present law) as to whether the subject matter of a particular production activity is to be treated as a tangible or intangible asset for other purposes of the Code.

Under the new rules, the costs of producing films, recordings, video tapes, books, and other similar property must be capitalized under the provisions of section 263A. For example, as the legislative history to the Act provides, "the uniform capitalization rules apply to the costs of producing a motion picture or researching and writing a book." 2 H.R. Rep. No. 99-841 (Conf. Rep.), 99th Cong., 2d Sess. II-308, n. 1 (1986) (the "Conference Report"). The capitalization requirements of section

263A apply to these properties regardless of whether the costs of these properties are treated as intangible or tangible costs under other provisions of the Code (*e.g.*, the provisions regarding the availability of investment tax credit). Thus, for example, the costs of producing a book (including teaching aids, and other similar properties) which are required to be capitalized under section 263A include, without limitation, prepublication expenditures of publishers, such as payments made to the authors of literary works, as well as costs incurred by the publishers in the writing, editing, compiling, illustrating, designing, and development of books or similar property. Such costs are to be capitalized under section 263A regardless of whether such costs relate to the production of the manuscript or copyright of a book, as opposed to the physical costs (*e.g.*, paper and ink) of printing and binding a book. Moreover, although research and experimental expenditures within the meaning of section 174 are not subject to the capitalization rules of section 263A, capitalization of prepublication expenditures with respect to books and similar properties is consistent with the definition of research and experimental expenditures in the existing regulations under section 174. See § 1.174–2(a)(1) of the Income Tax Regulations, which provides that the term "research and experimental expenditures" does not include expenditures incurred for research in connection with literary, historical, or similar projects.

Section 2119 of the Tax Reform Act of 1976 (Pub. L. 94–455) (the "1976 Act") provides that any regulations issued after the date of enactment of such Act dealing with the application of various Code sections (including sections 174 and 263) to prepublication expenditures "shall apply only with respect to taxable years beginning after the date on which such regulations are issued". Section 2119 of the 1976 Act (90 Stat. 1912) was not amended in the Tax Reform Act of 1986 to expand this restriction on effective dates to include regulations applying 263A. Moreover, in enacting section 263A of the Code, Congress simultaneously repealed section 280 of the Code, which dealt with expenditures incurred by individuals and certain entities in the production of books and other properties. The repeal of section 280, the legislative history to section 263A applying the provisions of section 263A to the costs of "researching and writing a book," and the statutory requirement to capitalize the costs of producing books as if they were tangible property, clearly evidence an intent to: (i) Apply the uniform capitalization rules of section 263A to the costs of producing books (indicating that such costs are not allowable as a deduction under section 174 because section 263A is not applicable to such deductions); and (ii) expand the persons subject to these capitalization rules beyond the range of section 280 which only applied to individuals and certain entities.

If, and to the extent, that section 2119 of the 1976 Act would otherwise contravene the clear Congressional intent underlying section 263A of the Tax Reform Act of 1986 regarding the production of books, then section 263A, the more recent expression of Congressional intent, is properly viewed as the legally determinative provision and section 2119 is viewed as modified, accordingly.

Thus, based on the foregoing, section 263A is applicable to all prepublication expenditures with respect to costs incurred after December 31, 1986, in taxable years ending after such date. If such prepublication expenditures relate or pertain to inventory property, section 263A shall apply to taxable years beginning after December 31, 1986, and shall require a change in method of accounting necessitating, for example, an adjustment under section 481.

Separate Trade or Business

Under the regulations, taxpayers may elect the use of various simplified methods and other procedures with respect to each trade or business of the taxpayer. The regulations clarify that, for purposes of these provisions, activities of the taxpayer shall not constitute a separate trade or business solely by reason of classification as a "natural business unit" or a similar inventory pool.

Gross Receipts Exception

The new capitalization rules for personal property acquired for resale do not apply if the taxpayer's average annual gross receipts for the three preceding taxable years are $10 million or less. This $10 million threshold test is not available with respect to real property acquired by the taxpayer for resale. The rules in effect before the enactment of section 263A to the Code continue to apply to taxpayers with average annual gross receipts of $10 million or less. Aggregation rules to take into account the gross receipts of certain related parties are provided for purposes of this provision.

Property Acquired for Resale

Taxpayers acquiring real or personal property for resale are subject to the provisions of section 263A. Taxpayers acquiring such property may elect a simplified method of accounting for the costs required to be capitalized under the temporary regulations (the "simplified resale method"). The allocation rules applicable to production activities will apply to those taxpayers that acquire property for resale who do not elect to use the simplified resale method. Thus, absent the election of the simplified resale method, taxpayers acquiring property for resale are required to allocate the additional costs required to be capitalized under section 263A with the same degree of specificity as was required of manufacturers of inventory under prior law. The regulations provide, however, that such taxpayers are generally required to allocate the same types of costs (*e.g.*, costs pertaining to purchasing, handling, storage, and allocable general and administrative activities) to property acquired for resale as taxpayers electing to use the simplified resale method. Moreover, the definitions of such costs under the simplified resale method are equally applicable to taxpayers acquiring property for resale although those taxpayers may not elect the use of such method. (In addition, pursuant to the legislative history of the Act, the regulations clarify that taxpayers producing property must also capitalize purchasing, handling and storage costs under section 263A).

The costs required to be allocated to property acquired for resale under the simplified resale method relate to the costs incurred in connection with purchasing ("purchasing"), handling, processing and repackaging ("handling"), and offsite storage and warehousing ("storage") of such property. In addition, such costs include the general and administrative costs allocable to these functions. The temporary regulations provide guidelines for determining what costs are incurred in connection with these activities and the methods by which such costs are to be allocated to the property acquired and held. The temporary regulations contain examples that apply the simplified resale method to inventories in cases involving the use of both the last-in first-out ("LIFO") and the first-in first-out ("FIFO") methods.

The simplified resale method as set forth in the temporary regulations generally follows the simplified method described in the legislative history of the Act (Conference Report at II 305–08). However, the simplified resale method differs from the simplified method set forth in the Conference Report in two minor respects. The differences between the two methods concern: (i) The

inclusion of beginning inventory balances in determining certain allocation ratios under the simplified method; and (ii) the allocation ratio used to apportion general and administrative expenses.

The simplified method set forth in the Conference Report provides that the allocation ratio for apportioning storage costs and handling costs shall be determined by dividing: (i) The amount of such costs, by (ii) beginning inventory balances and gross purchases during the year. The simplified resale method as set forth in the temporary regulations provides that the denominator of the fraction, as described above, shall consist only of gross purchases during the year. Beginning inventory balances are excluded from the calculation of the allocation ratio in the simplified resale method.

This change has been made to provide consistency with the treatment of beginning inventory balances under the simplified resale method. Under both versions of the method, storage and handling costs incurred during the year are only allocated to units in ending inventory which are not viewed as being present in beginning inventory for the year in question. Thus, for example, with respect to a LIFO taxpayer, such costs are allocated to units in the LIFO "increment" for such year. Similarly, with respect to a FIFO taxpayer, such costs are allocated only to the extent that units in ending inventory are treated as being purchased during the year under the FIFO cost flow assumption. Inclusion of beginning inventory balances in the denominator of the allocation fraction would be justified only if storage and handling costs were viewed as benefitting, and being incurred by reason of, units in beginning inventory. However, such a view is inconsistent with the determination that beginning inventory balances do not accumulate accretions of annual storage and handling costs. Accordingly, the simplified resale method differs from the simplified method in the Conference Report with respect to the determination of these allocation ratios.

The simplified resale method also differs from the method provided in the Conference Report with regard to the allocation of general and administrative expenses that are allocable in part to storage, purchasing, and handling activities, and in part to activities for which capitalization is not required under the simplified method ("mixed service costs"). The Conference Report provides that mixed service costs shall be allocated to activities based on the ratio of payroll costs incurred in a particular function divided by the taxpayer's total gross payroll costs. This procedure requires the denominator of the allocation fraction to include payroll costs which are themselves mixed service costs. The inclusion of mixed service costs in the denominator would imply that costs qualifying as mixed service costs are being allocated, in part, to such mixed service costs themselves. Such a result would only be appropriate if such amounts initially allocated were eventually reallocated to either activities subject, or not subject, to capitalization. However, the mechanics of the simplified method in the Conference Report do not provide for any such reallocation procedure, but rather only require an initial allocation of service costs to the activities of the taxpayer. Based on the foregoing, the simplified resale method provides that the labor costs of mixed service functions are subtracted from the denominator of the allocation fraction which is used to determine the amount of mixed service costs allocable to activities subject to capitalization. In addition, the simplified resale method contains a "de minimis" rule to be used in determining whether the cost of a particular activity is a mixed service cost under the regulations.

The Conference Report provides that "the simplified method provided under rules or regulations generally will follow the examples . . . [contained in the Conference Report] and that, until rules or regulations are issued, taxpayers may rely on these examples." Conference Report at II-305. Additionally, the Conference Report provides, that "[t]he Treasury Department may modify the simplified method or permit the use of other methods by rules or regulations". The changes made to the simplified method in the temporary regulations are changes of a technical and minor nature that do not alter the general mechanics of the method or the simplifying assumptions underlying its use. In light of the publication of these temporary regulations, taxpayers electing to use the simplified method for property acquired for resale are required to use the simplified resale method as provided herein in determining their taxable income for their taxable years beginning after December 31, 1986, and in determining their estimated tax payments for all periods in such years. The election to use the simplified resale method shall be made separately with respect to each trade or business of the taxpayer.

Inventories

For taxable years beginning after December 31, 1986, the temporary regulations require a restatement or revaluation of beginning inventory balances to reflect the additional amounts required to be included in inventory costs under the uniform capitalization rules. Goods on hand as of the effective date are to be revalued as if the new capitalization rules had been in effect for all prior periods; such revaluation is treated as a change in the taxpayer's methods of accounting for inventory costs. For taxpayers using the "dollar-value" LIFO method of valuing inventories, the revalued year prior to the year of change will become the new base year for purposes of determining future indexes.

For taxpayers required to change their method of accounting under the temporary regulations, sufficient data required to make an accurate revaluation of all costs or layers in a taxpayer's inventory may be unavailable or difficult to obtain. For example, in cases where goods held in inventory are no longer produced by the taxpayer or the taxpayer is treated as having acquired or produced an item of inventory a number of years prior to the date of revaluation, the taxpayer may not have the information necessary to compute the actual amount of additional costs allocable to such inventory items. For this reason, the temporary regulations provide rules that permit certain taxpayers to estimate the costs to be used in the revaluation of inventory costs or layers that relate to prior periods.

With respect to LIFO taxpayers required to account for the costs of producing inventory or acquiring property for resale under section 263A, it is intended that the provisions of prior law be continued with respect to the circumstances whereunder a LIFO election may be disallowed or terminated. Thus, for example, in determining inventory cost for the year of a LIFO election and any subsequent year, the failure to include (or exclude) an item of cost as required by section 263A will not warrant disallowance or termination of a LIFO election. (See Revenue Procedure 79-23, 1979-1 C.B. 564). Similarly, it is intended that the allocation of costs under section 263A shall not result in a violation of the "LIFO conformity requirement" in § 1.472-2 of the Income Tax Regulations in situations where a similar allocation of production costs under § 1.471-11 of the Income Tax Regulations (the "full

absorption" regulations) would not result in any such violation.

Simplified Production Method

Taxpayers producing inventory property may elect a simplified method of accounting for the costs required to be allocated under the temporary regulations (the "simplified production method"). Absent the election of the simplified production method, taxpayers are required to allocate additional costs required to be capitalized under section 263A with the same degree of specificity as was required of inventoriable costs under prior law. The simplified production method shall be treated as a method of accounting under the Code. Once a taxpayer has chosen either the simplified production method, or the methods generally available to producers of property under the Code, such taxpayer may not change its method without obtaining the permission of the Commissioner.

The simplified production method is similar to the simplified resale method available to taxpayers acquiring property for resale. Under the simplified production method, a taxpayer shall determine all of the additional costs (other than interest expense) which are required to be included by the taxpayer in inventoriable costs for the year under section 263A and the regulations (the "additional section 263A costs"). (Interest, however, shall be excluded from the additional section 263A costs under the simplified production method and allocated separately). The amount of the additional selection 263A costs shall vary with respect to each taxpayer, depending on the amount and types of costs that such taxpayer included in the computation of inventoriable costs under prior law. The additional section 263A costs shall then be allocated to inventory based on the ratio (the "absorption ratio") of such costs to the taxpayer's total "section 471 costs" incurred for the year under the taxpayer's method of accounting. The taxpayer's "section 471 costs" are defined as the costs required to be included in inventoriable costs by the taxpayer under the full absorption regulations. The taxpayer shall determine the additional section 263A costs to be allocated to ending inventory by multiplying the absorption ratio by the amounts contained in the taxpayer's ending section 471 inventory balance which are treated as costs incurred during the current year under the taxpayer's method of accounting. The taxpayer's "section 471 inventory balance" is defined as the inventory balance of the taxpayer's section 471 costs at the specified point in time. The temporary regulations contain examples which provide guidance to taxpayers regarding the application of the simplified production method.

For purposes of the simplified production method, taxpayers will initially calculate their inventory balances without regard to the new uniform capitalization rules. Taxpayers will then determine the amounts of additional section 263A costs that must be capitalized, and add such amounts, along with amounts of additional section 263A costs contained in beginning inventory balances (where appropriate), to their preliminary inventory balances to determine their final balances. Thus, for example, with respect to a taxpayer using the LIFO method, the calculation of a particular year's LIFO index will be made without regard to the new capitalization rules. However, costs capitalized under the simplified production method will be added to the LIFO layers applicable to the various years for which the costs were accumulated. Although the additional section 263A costs are not included with the taxpayer's section 471 costs in calculating a particular year's LIFO index, the additional section 263A costs shall be treated as inventory costs for all purposes of the Code. Thus, for example, with respect to a FIFO taxpayer which properly elects to value its inventory at the lower of cost or market (as described in § 1.471–2(c) of the Income Tax Regulations), the additional section 263A costs which are applicable to the taxpayer's section 471 costs shall be treated as costs of inventory for purposes of determining: (i) Whether the cost of inventory exceeds its market value; and (ii) the amount of the reduction in the inventory cost which is allowed under the regulations to value the inventory at market.

The determination by a taxpayer of its section 471 costs under the simplified production method shall be made by reference to the methods of accounting used by such taxpayer immediately prior to the effective date of the Act. Any change in the determination of section 471 costs which would constitute a change in method of accounting under law prior to the Act shall be deemed to constitute a change in method of accounting under section 263A, and is thus subject to all requirements of law regarding such change.

Taxpayers may elect to use the simplified production method with respect to the production of inventory property. In addition, taxpayers may elect to use the simplified production method with respect to production of property which is held primarily for sale to customers in the ordinary course of the taxpayer's business, although that property may not qualify as inventory property under the Code (*e.g.*, houses constructed by a builder and offered for sale to customers). With respect to a taxpayer eligible to use the simplified production method, but which properly does not account for its production costs under the full absorption regulations, the term "section 471 costs" as used above, shall be defined as the costs required to be allocated to production under the taxpayer's method of accounting immediately prior to the effective date of the Act.

The simplified production method is designed to alleviate the administrative burdens of complying with the new capitalization rules in situations where mass production of assets occurs on a repetitive and routine basis, with a typically high "turnover" rate for the produced assets. Such a production process is especially amenable to the simplified production method, which essentially allows allocation of additional section 263A costs to the aggregate inventory balances of the taxpayer based on the aggregate "turnover" rate of the taxpayer's inventory. Based on the foregoing, the simplified production method is not appropriate for use in accounting for casual or occasional production of property. Thus, the simplified production method may not be utilized with respect to property constructed by a taxpayer for use in its trade or business ("self-constructed" property), or any other property produced by a taxpayer which is not described in section 1221(1). Similarly, the simplified production method is not available with respect to property produced under a long-term contract even though an inventory method may be used by the taxpayer to account for such production. Finally, the simplified production method is not available to taxpayers acquiring property for resale who do not elect to use the simplified resale method, and thus are required to use the general rules applicable to the production of property.

In the case of a single trade or business that consists of operations including both the production of property and the acquisition of property for resale, the simplified production method, if elected, must be applied with respect to all operations of that trade or business. In such a case, a taxpayer is not permitted to apply the simplified production method to only a portion of the operations of such trade or business; moreover, the taxpayer may not apply

the simplified resale method to any portion of such trade or business.

The election to use the simplified production method shall be made separately with respect to each trade or business of the taxpayer.

The temporary regulations provide a simplified method for producers of property in order to reduce the administrative costs of taxpayer compliance with the capitalization requirements of section 263A while preserving the statute's basic purpose to apply uniform capitalization rules to the costs of producing property. The Internal Revenue Service welcomes comments and suggestions as to how the simplified production method may be improved to accomplish objectives most adequately.

General and Administrative Expenses—Simplified Method

The temporary regulations also provide a simplified procedure (the "simplified service cost method") for determining the amount of certain indirect costs which are required to be allocated by the taxpayer to inventory production under section 263A. The simplified service cost method shall be treated as a method of accounting under the Code. Once a taxpayer has chosen either the simplified service cost method, or other methods available for allocating such costs, such taxpayer may not change its method of accounting without obtaining the permission of the Commissioner. The simplified service cost method shall only be used to determine the total amount of certain indirect costs which are required to be allocated to inventory production under section 263A ("inventoriable mixed service costs"). The allocation of such indirect costs to particular items of inventory shall be made pursuant to other methods allowed under the temporary regulations.

The amount of inventoriable mixed service costs for a particular taxable year shall be determined by multiplying: (i) The total mixed service costs of the taxpayer incurred in the particular trade or business of such year, by (ii) the ratio of: (a) (all of the taxpayer's production costs incurred during the year excluding all mixed service costs and all interest, to (b) all of the taxpayer's costs of operations incurred during such year excluding all mixed service costs and all interest). For purposes of this procedure, all of the taxpayer's production costs incurred during the year include all of the inventoriable costs incurred in the particular trade or business as determined under section 263A and this section. Thus, for example, such costs include all of the taxpayer's section 471 costs, in addition to all of the taxpayer's additional section 263A costs.

In addition, for purposes of this procedure, all of the taxpayer's costs of operations incurred during the taxable year include all of the taxpayer's production costs incurred during the year, in addition to all of taxpayer's other costs of operations incurred in the particular trade or business. Such costs include, but are not limited to: (i) Salaries and related costs of all personnel, (ii) all depreciation taken for federal income tax purposes, (iii) research and experimental expenses, and (iv) selling, marketing and distribution expenses. Such costs of operation shall not include however, federal, state, local income taxes (or taxes similar to income taxes, e.g., franchise taxes assessed on income). The regulations contain examples which provide guidance as to the application of the simplified service cost method.

The indirect costs for which the simplified service cost method may be used are indirect general and administrative costs which directly benefit, or which are incurred by reason of the performance of the inventory production activities of the taxpayer, but which also benefit other activities of the taxpayer which are not inventory production activities. For purposes of this provision, such costs shall be defined as "mixed service costs." The simplified service cost method, however, shall not be used with respect to mixed service costs which the taxpayer is properly allocating under its method of accounting (prior to the Act) to production activities under the full absorption regulations. Such general and administrative costs are outside the scope of this provision, and shall be allocated to production activities under the general provisions of this section.

In addition, mixed service costs do not include indirect costs which directly benefit or which are incurred by reason of the production activities of the taxpayer, if such costs do not benefit other activities to any extent ("production service costs"). Moreover, mixed service costs do not include indirect costs which do not directly benefit and are not incurred by reason of the taxpayer's inventory production activities to any extent ("policy service costs").

In determining whether indirect costs shall be treated as production service costs or policy service costs, the predominant nature of the indirect costs shall be the controlling factor. For purposes of this method, the predominant nature of a indirect cost shall be viewed as attributable to a particular activity if 90% or more of that cost directly benefits, or is incurred by reason of, such activity. In such a case, the taxpayer shall disregard the portion of the cost which is attributable to the activities which are not predominant. For example, assume that 90% of the costs of a particular department directly benefit, or are incurred by reason of the taxpayer's inventory production activities. For purposes of this method, the taxpayer shall treat 100% of the costs of the department as if such costs were production service costs. Similarly, assume that 90% of the costs of a particular department directly benefit, or are incurred by reason of the taxpayer's policy making activities. For purposes of this method, the taxpayer shall treat 100% of the costs of the department as if such costs were policy service costs.

Taxpayers engaged in production of inventory may incur mixed service costs which are allocable to more than one trade or business. In such a case, the amount of mixed services costs which are allocable to the particular trade or business for which the simplified service cost method has been elected, shall be determined using any reasonable allocation method generally allowed under these regulations. Similar rules shall apply to the taxpayer's cost of operations which are incurred in more than one trade or business.

A taxpayer may elect to use the simplified service cost method regardless of whether such taxpayer elects to use the simplified production method. Thus, for example, a taxpayer may determine its inventoriable mixed costs under the simplified service cost method, and then allocate such mixed service costs to its production activities under the general provisions of the regulations. In such a situation, the taxpayer shall allocate inventoriable mixed service costs based on any reasonable allocation procedure allowed under the regulations. In the case of a taxpayer that elects to use the simplified production method and also elects to use the simplified mixed service cost method, the amount of inventoriable mixed service costs shall be included with the additional section 263A costs, and allocated to ending inventory based on the procedures required under the simplified production method. Taxpayers may elect to use the simplified service cost method only with respect to production of the same types of property for which an election may be made to use the simplified production cost method, *i.e.*, inventory property and property held primarily for sale to

customers in the ordinary course of business.

The election to use the simplified service cost method shall be made separately with respect to each trade or business of the taxpayer.

Farming Businesses

The provisions of the temporary regulations also apply to property produced in a farming business. In general, the temporary regulations apply to costs allocable to the production of property with a "preproductive period" that exceeds two years. Taxpayers required to use an accrual method of accounting under sections 447 and 448(a)(3), however, must allocate costs under section 263A and the temporary regulations without regard to the preproductive period of the property produced. The temporary regulations permit the use of the farm-price method and the unit-livestock-price method ("unit-livestock method") in accounting for the costs allocable to property produced in a farming business. A special rule, described below, is provided for tax shelters using the unit-livestock method.

Under the unit-livestock method as currently applied under § 1.471-6 of the Income Tax Regulations, no increase in unit cost is required in the taxable year of purchase of certain animals which are purchased during the last six months of such taxable year. As a result, in some cases the use of the method may not result in an adequate allocation of costs consistent with the principles of section 263A, particularly in the case of tax shelters where anticipated tax consequences are likely to play a significant role in the determination of when to purchase livestock.

Thus, the temporary regulations provide that tax shelters using the unit-livestock method of accounting must include in inventory the annual cost increment for all animals purchased during the taxable year, including those purchased during the last six months of the taxable year. For purposes of this provision, the term "tax shelter" is defined as any tax shelter required to use an accrual method of accounting under section 448(a)(3).

Section 263A(d)(3) allows certain taxpayers to elect not to have the provisions of section 263A apply to any plant or animal produced in any farming business carried on by such taxpayer. The election procedures are described in detail in the temporary regulations relating to elections under the Tax Reform Act of 1986 (§ 5h.5(c) of the Income Tax Regulations). In addition, the temporary regulations under section 263A herein provide guidance with respect to various features of the election, including the determination of eligibility for the election, and the effect of such election of the farming businesses of the taxpayer.

Under the election procedures, taxpayers may elect to account for farming production costs under the rules in effect before the enactment of section 263A subject to certain conditions relating to the cost recovery of property used in any farming business of the taxpayer and the treatment upon disposition of the property being produced in the business. The election not to have section 263A apply is effective as to all the farming activities of the electing taxpayer.

Section 263A does not apply to costs incurred on or after October 22, 1986, by certain taxpayers for replanting edible crops lost or damaged by reason of various types of casualty. The temporary regulations provide guidance with respect to this provision. Persons, other than the taxpayer that owned the property at the time of loss or damage, are permitted to deduct costs of replanting if certain ownership and participation criteria are met.

Practical Capacity

Under § 1.471-11(d)(4) of the full absorption regulations applicable to manufacturers of inventory under prior law, taxpayers were permitted to use the "practical capacity concept" in determining the amounts of fixed indirect production costs which were subject to inclusion in ending inventory. Under the practical capacity concept, taxpayers were required to apportion only a percentage of their fixed indirect production costs to units of production; this percentage corresponded to the percentage of productive capacity at which the particular manufacturing facility was operating. The remaining amounts of fixed indirect production costs were then currently deducted by the taxpayer.

The temporary regulations do not provide guidance with respect to the availability of the practical capacity concept under the uniform capitalization rules of section 263A. The Internal Revenue Service is considering this issue and will provide future guidance with respect to the practical capacity concept under section 263A. It is possible that the forthcoming regulations will prohibit the use of the practical capacity concept under section 263A, subject to the effective date provisions of section 803 (d)(2) of the Act generally applicable to inventory property.

The fact that these temporary regulations provide no guidance with respect to the practical capacity concept under section 263A creates no inference as to the availability of the concept in accounting for costs under a long-term contract under sections 451 or 460 of the Code.

Pension Costs—Past Service Costs

Under the temporary regulations, contributions paid to or under a pension or annuity plan which are allowable under section 404 (and section 404A if applicable), are not subject to the capitalization requirements of section 263A to the extent that such contributions represent "past service costs". Until otherwise provided to the contrary, past service costs shall be determined, for purposes of section 263A, with reference to the allocation between "normal costs" and "past service costs" under the funding standards of section 412. With respect to an actuarial method which does not distinguish between normal costs and past service costs, none of the amount allowable as a deduction under section 404 shall be treated as past service costs.

The legislative history of the Act evidences a Congressional concern with the utilization of the funding standards under section 412 in determining the nature of pension costs for purposes of section 263A. (*See* S. Rep. No. 99-313, 99th Cong., 2d Sess. at 142-43 (1986)). Accordingly, the Internal Revenue Service is presently considering this matter, and may revise, at some future date, the regulations under section 263A defining past service costs for purposes of the uniform capitalization rules. Alternative provisions under consideration include the utilization, in whole or in part, of financial reporting standards in determining past service costs. Any amendments to these regulations which alter the determination of past service costs under section 263A will be applied in a prospective manner, i.e., with respect to costs incurred after the publication of such amendments (or, in the case of inventory property, with respect to taxable years beginning after the publication of such amendments).

Allocation Methods

In accordance with the legislative history of the Act, the temporary regulations provide cost capitalization rules that are consistent with the rules contained in § 1.451-3 of the Income Tax Regulations and permit the use of cost allocation methods similar to those described in §§ 1.451-3 and 1.471-11 of the regulations. In general, the temporary regulations provide that

indirect costs are to be allocated to property using methods that result in a reasonable allocation of costs to and among activities, including the specific identification method, the standard cost method, and methods using burden rates. Allocations of administrative, service, or support costs that benefit or are incurred by reason of an activity are to be made on the basis of a factor or relationship that reasonably relates such costs with the benefit provided to the activity. The temporary regulations permit the use of any reasonable method of allocating general and administrative costs that is consistently applied.

Allocations Between Related Parties

The temporary regulations provide guidance with respect to the providing of any good or service ("item") between related parties if such item is required to be capitalized by the recipient taxpayer under section 263A and if such item is provided at a price which is less than an "arm's length" charge. The temporary regulations require that both the taxpayer and the related person account for the transaction as if the taxpayer purchased the item in question for its arm's length charge from the related person. Thus, for example, the taxpayer would capitalize an amount equal to the arm's length charge for the item, and the related person would typically include in income an amount equal to such arm's length charge.

The temporary regulations provide exceptions to the required accounting treatment of these transactions in situations where the principles of section 263A would not be contravened by the accounting treatment used by the taxpayer and the related person.

For purposes of this provision, the term "related persons" shall mean two or more organizations, trades, or businesses, owned or controlled directly by the same interests, within the meaning of section 482. The rules under section 482 shall apply in determining the arm's length charge of an item, and the various correlative adjustments which shall occur by virtue of the required accounting treatment of these transactions. The Internal Revenue Service invites comments with respect to this provision.

Substantial Construction

In general, the rules contained in the temporary regulations apply to costs incurred after December 31, 1986. These rules do not apply, however, to costs incurred in connection with property constructed by the taxpayer for use in its trade or business if substantial construction had occurred with respect to the property before March 1, 1986.

The temporary regulations provide that, for purposes of section 263A, substantial construction will be deemed to have occurred if the lesser of: (i) 10 percent of the total estimated costs of construction, or (ii) (the greater of $10 million or 2 percent of the total estimated costs of construction), was incurred before March 1, 1986. The temporary regulations provide an example to illustrate the application of this rule. For purposes of this rule, construction costs are those costs incurred during the actual physical construction of the property. Costs incurred for preliminary activities such as project engineering and architectural design activities, do not constitute costs incurred for construction.

Natural Gas

Pursuant to the legislative history of the Act, the temporary regulations provide that the provisions of section 263A regarding the capitalization of indirect costs with respect to property acquired by the taxpayer for resale shall not apply to "cushion gas." For this purpose, cushion gas is defined as natural gas stored in an underground storage facility or reservoir which is necessary to maintain the level of pressure within such reservoir to allow for its operation. (Cushion gas which is not recoverable upon the abandonment or termination of the storage facility is a capital expenditure recoverable through depreciation. Revenue Ruling 75–233, 1975–1 C.B. 95.) No inference is intended by this exception of cushion gas from the capitalization rules of section 263A as to the federal income tax treatment of other matters (*e.g.*, the treatment of "line pack gas" contained within a natural gas pipeline). Similarly, the exception for cushion gas from the capitalization rules of section 263A does not affect the treatment of cushion gas under other sections of the Code, where applicable.

The legislative history of the Act also provides that the Treasury Department "may" issue regulations providing that "emergency gas" (or a portion thereof), may be similarly excepted from the capitalization rules of section 263A. Conference Report at II–305. For this purpose, emergency gas is defined as natural gas stored in an underground storage facility or reservoir which is not cushion gas, but which nevertheless may be stored by the taxpayer in order to be available for periods of unusually heavy customer demand. After careful consideration of the matter, the temporary regulations, in keeping with the principles of uniformity and neutrality underlying the Act, do not provide a special exception for emergency gas. Accordingly, the capitalization rules of section 263A regarding property acquired for resale are applicable to emergency gas, which is regarded as part of the taxpayer's inventory under the Code.

Application of Section 263A to Foreign Persons

The provisions of section 263A (including the effective dates thereof) are applicable to all persons engaging in the production of property, or the acquisition of property for resale, including, for example, certain foreign persons which may be organized and operated exclusively outside the United States. Regulations contained in a separate document will be issued to provide further detailed guidance with respect to the application of the rules under section 263A for purposes of making certain determinations of the earnings and profits of all foreign corporations including, for example, determinations of the earnings and profits for purposes of sections 316, 902, 964, and 1248.

Transfers of Inventory Between Related Parties

Section 263A(h)(1) of the Code provides that the Secretary of the Treasury shall prescribe rules to carry out the purpose of section 263A, including regulations to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section. It has come to the attention of the Internal Revenue Service that certain taxpayers using the LIFO method of accounting may have contributed (or may contribute) inventory properties to subsidiaries (also using the LIFO method) in transactions described in section 351, shortly before the effective date of section 803 of the Act (i.e., taxable years beginning after December 31, 1986). Such transactions, although conducted for legitimate business purposes, could have the inadvertent effect of allowing the transferee to avoid (practically speaking) the necessity to restate beginning inventory balances under the change in method of accounting required under section 263A. Such avoidance could take place because, under certain authorities, the transferee would regard the transferred properties as newly acquired. Thus, under these authorities the transferee would not be required to restate those beginning inventory balances with reference to the transferor's production history, leading to an avoidance of the rules of section 263A which would have otherwise applied if such transfer had not taken place.

The regulations prevent this avoidance of section 263A by requiring that the inventory restatement be calculated by assuming that the inventory properties were still in the hands of the transferor on the restatement date. This provision of the regulations is effective for transfers of property occurring after September 18, 1986 (the date of filing with respect to the Conference Report of H.R. 3838).

Transitional Rules

With respect to taxpayers accounting for the costs of producing inventory, the change in accounting method resulting from the inclusion under section 263A of additional costs in inventory for the year of change will generally be treated as an automatic change in accounting method, initiated by the taxpayer and approved by the Commissioner. Thus, for example, no diminution in the amount of the section 481(a) adjustment shall occur by reason of amounts attributable to years preceding the effective date of the Internal Revenue Code of 1954.

The temporary regulations provide guidance to taxpayers regarding the changes in accounting methods required under section 263A and the amount and timing of the section 481(a) adjustment. Except as modified by the temporary regulations, the timing of the section 481(a) adjustment shall be determined under the administrative procedures applicable to a voluntary change in method of accounting in effect on January 1, 1987, i.e., Revenue Procedure 84–74, 1984–2 C.B. 736. The difference between the inventory as valued under prior law and the revalued inventory (*i.e.*, the increase in beginning inventory balances for the year of change) will represent the amount of adjustment to be taken into account under section 481 of the Code. The section 481(a) adjustment is allocated over a period not to exceed four years. In the case of property which is not inventory in the hands of the taxpayer, the temporary regulations apply to costs incurred after December 31, 1986, with no restatement of basis or capital account and no corresponding adjustment under section 481(a). Thus, for example, a real estate developer that holds homes for sale in the ordinary course of business would not restate the balance in its capital accounts or calculate a section 481(a) adjustment because such homes are not treated as merchandise includable in inventory. *See*, e.g., *W.C. and A.N. Miller Development v. Commissioner*, 81 T.C. 619 (1983).

The Internal Revenue Service intends to amend the general rules applicable to changes in methods of accounting to ensure that taxpayers failing to comply with the transitional provisions of section 263A will not receive more favorable treatment under the rules generally applicable to voluntary changes in methods of accounting.

Special Analyses

The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. A general notice of proposed rulemaking is not required for temporary regulations. Accordingly, the temporary regulations are not subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6). The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation with respect to matters of both substance and style.

List of Subjects

26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set out in the preamble, Subchapter A, Part 1 and Subchapter H, Part 602 of Title 26, Chapter 1 of the Code of Federal Regulations are amended as set forth below:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.263A–1T also issued under 26 U.S.C. 263A.

Par. 2. New § 1.263A–1T is added at the appropriate place to read as follows:

§ 1.263A–1T Capitalization and inclusion in inventory costs of certain expenses (temporary).

(a) *Introduction and effective date*—(1) *In general.* Except as otherwise provided, all costs that are incurred with respect to real or tangible personal property which is produced, or property which is acquired for resale, are to be capitalized with respect to such property. Rules are provided herein for the capitalization and allocation of costs among the various activities of the taxpayer. This section applies to costs incurred for the production of real property and tangible personal property. In the case of costs incurred with respect to property acquired for resale, this section applies to tangible and intangible property. Costs that are not treated as capitalized with respect to property produced or acquired for resale shall be accounted for under a proper method of accounting. See section 446 (c) and § 1.446–1.

(2) *Property produced in a farming business.* See paragraph (c) of this section for definitions and special rules applicable to costs incurred in a farming business.

(3) *Property acquired for resale.* See paragraph (d) of this section for rules relating to accounting for the costs of property acquired for resale.

(4) *Effective date.* In general, this section is effective for costs incurred after December 31, 1986, in taxable years ending after such date. In the case of property that is inventory in the hands of the taxpayer, this section is effective for taxable years beginning after December 31, 1986. See paragraph (e) of this section regarding the requirement that taxpayers change their method of accounting for inventory property.

(5) *Definitions and special rules*—(i) *Capitalize; allocate.* For purposes of this section, the term "capitalize" means, in the case of property that is inventory in the hands of the taxpayer, to include in inventory costs and, in the case of other property, to charge to capital accounts or basis. The term "allocate" means to apportion costs to various activities including production and resale activities with respect to which such costs will be capitalized. Capitalized costs are to be recovered through depreciation, amortization, cost of goods sold, as an adjustment to basis, or otherwise, at such time as the property is used, sold, or otherwise disposed of by the taxpayer. The recovery of such capitalized costs shall be in accordance with the rules in the applicable sections of the Code relating to such use, sale, or disposition.

(ii) *Produce.* For purposes of this section, the term "produce" includes construct, build, install, manufacture, develop, improve, create, raise or grow. Property produced for the taxpayer under a contract with the taxpayer is treated as property produced by the taxpayer to the extent that the taxpayer makes payments or otherwise incurs costs with respect to such property.

(iii) *Tangible personal property.* (A) *General rule.* For purposes of this section, the term "tangible personal property" includes films, sound recordings, video tapes, books and other similar property containing words, ideas, concepts, images or sounds. A sound recording is a work that results from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material objects, such as discs, tapes or other phonorecordings, in which such sounds are embodied. The requirements of this section apply to the production of tangible personal property within the meaning of this paragraph (a)(5)(iii) without regard to whether such property is treated as tangible or intangible under other sections of the Code. Thus, the requirements of this section apply to the costs of the properties enumerated in this paragraph (a)(5)(iii) although such costs may consist of copyrights, licenses, manuscripts, and other items which may be treated as intangible for other purposes of the Code. For example, the costs of producing a book (including teaching aids and other similar property) required to be capitalized under this section include prepublication expenditures incurred by publishers of books and other similar property, including payments made to authors of literary works, as well as costs incurred by such publishers in the writing, editing, compiling, illustrating, designing and development of books or similar property. Such costs are required to be capitalized under this section without regard to whether such costs are determined to relate to the production of a manuscript or copyright of a book, as opposed to the physical costs (e.g., paper and ink) of printing and binding a book. See § 1.174–2 (a)(1) which provides that the term "research or experimental expenditures" does not include expenditures incurred for research in connection with literary, historical, or similar projects.

(B) *Clarification of effective date.* The provisions of this section as applied to the production of tangible personal property as defined herein (including prepublication expenditures of publishers), shall apply to such production activities under the effective date provisions of paragraph (a)(4) of this section.

(iv) *Trade or business.* For purposes of this section, activities of the taxpayer shall not constitute a separate trade or business solely by reason of classification as an inventory pool or a business unit (such as a "natural business unit" as defined in § 1.472–8(b)).

(6) *Exceptions for certain costs.* This section does not apply to:

(i) Any property produced by the taxpayer for use by the taxpayer other than in a trade or business or an activity conducted for profit.

(ii) Any intangible drilling and development costs of oil and gas or geothermal wells allowable as a deduction under section 263(c), or any development or exploration costs of mineral property allowable as a deduction under sections 616(a) or 617(a) of the Code.

(iii) Any costs incurred for the production of property by the taxpayer pursuant to a long-term contract as defined in section 460, regardless of whether the taxpayer uses an inventory method to account for such production. (However, this section shall apply to property produced for the taxpayer under contract with the taxpayer to the extent that the taxpayer makes payments or otherwise incurs costs with respect to such property.)

(iv) Any amount allowable as a deduction under section 174.

(v) Any costs incurred for the production of property for use by the taxpayer in its trade or business if substantial construction of the property had occurred before March 1, 1986. For purposes of this section, substantial construction is deemed to have occurred if the lesser of—

(A) 10 percent of the total estimated costs of construction, or

(B) The greater of—

(*1*) $10 million or

(*2*) 2 percent of the total estimated costs of construction,

was incurred before March 1, 1986. For purposes of this provision, the total estimated costs of construction shall be determined by reference to a reasonable estimate, on or before March 1, 1986, of such amount. Assume, for example, that on March 1, 1986, the estimated costs of constructing a facility were $150 million. Assume that before March 1, 1986, $12 million of construction costs had been incurred. Based on the above facts, substantial construction would be deemed to have occurred before March 1, 1986, because $12 million (the costs of construction incurred before such date) is greater than $10 million (the lesser of $15 million or (the greater of $10 million or $3 million)). For purposes of this provision, construction costs are defined as those costs incurred after construction has commenced at the site of the property being constructed (unless the property will not be located on land and, therefore, the initial construction of the property must begin at a location other than the intended site). For example, in the case of a building, construction commences when work begins on the building, such as the excavation of the site, the pouring of pads for the building, or the driving of foundation pilings into the ground. Preliminary activities such as project engineering and architectural design do not constitute the commencement of construction, nor are such costs considered construction costs, for purposes of this paragraph (a)(6)(v).

(vi) Any costs incurred by a taxpayer with respect to natural gas acquired for resale to the extent that such costs would otherwise be allocable to "cushion gas". "Cushion gas" is the portion of gas stored in an underground storage facility or reservoir that is required to maintain the level or pressure necessary for operation of the facility. Costs incurred in connection with cushion gas are to be accounted for under the rules in effect before the enactment of section 263A to the Code.

(vii) Any costs incurred with respect to personal property acquired for resale by a taxpayer with average annual gross receipts that do not exceed $10 million. See paragraph (d)(2) of this section for rules and definitions.

(viii) Any costs incurred in raising, growing, or harvesting trees (including the costs associated with the real property underlying such trees), other than trees bearing fruit, nuts, or other crops, or ornamental trees. For purposes of this section, ornamental trees do not include evergreen trees that are more than six years old when severed from the roots. See paragraph (c) of this section for the treatment of costs incurred in connection with trees not covered by this exception.

(b) *Capitalization of costs*—(1) *In general.* Except as otherwise provided, the following rules shall apply in determining what costs are properly capitalized with respect to property which is produced or acquired for resale. (Hereinafter, the activities attributable to such property may be referred to as "production or resale activities".)

(2) *Types of costs*—(i) *Direct costs.* Direct material costs and direct labor costs must be capitalized with respect to a production or resale activity. "Direct

material costs" include the cost of those materials which become an integral part of the subject matter and the cost of those materials which are consumed in the ordinary course of the activity. "Direct labor costs" include the cost of labor which can be identified or associated with a particular activity. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983), shift differential, payroll taxes and payment to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor.

(ii) *Indirect costs—general description.* The term "indirect costs" includes all costs other than direct material costs and direct labor costs. All costs that directly benefit or are incurred by reason of the performance of a production or resale activity must be capitalized with respect to the property produced or acquired unless otherwise provided in paragraph (b)(2)(v) of this section. Certain types of costs may directly benefit, or be incurred by reason of the performance of a particular activity of the taxpayer even though the same types of costs also benefit other activities of the taxpayer. Accordingly, such costs require a reasonable allocation to determine the portion of such costs that are attributable to each activity of the taxpayer.

(iii) *Examples of indirect costs.* Indirect costs that must be capitalized with respect to production or resale activities include amounts incurred for:

(A) Repair of equipment or facilities;

(B) Maintenance of equipment or facilities;

(C) Utilities, such as heat, light, and power, relating to equipment or facilities;

(D) Rent of equipment, facilities, or land;

(E) Indirect labor and contract supervisory wages, including basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d) as it existed prior to its repeal in 1983), shift differential, payroll taxes and contributions to supplemental unemployment benefit plans;

(F) Indirect materials and supplies;

(G) Tools and equipment the costs of which are not otherwise capitalized:

(H) Quality control and inspection;

(I) Taxes otherwise allowable as a deduction under section 164 (other than State, local, and foreign income taxes) that relate to labor, materials, supplies, equipment, land or facilities, other than taxes described in section 164 that are paid or accrued by a taxpayer in connection with the acquisition of property described in paragraph (b)(2)(iii)(J) of this section and which are treated as part of the cost of such acquired property);

(J) Depreciation, amortization and cost recovery allowance on equipment and facilities (to the extent allowable as deductions under Chapter 1 of the Code);

(K) Depletion (whether or not in excess of cost);

(L) Administrative costs, whether or not performed on a job-site, but not including any cost of selling, or any return on capital;

(M) Direct and indirect costs incurred by any administrative, service, or support function or department to the extent such costs are allocable to particular activities pursuant to paragraph (b)(4) of this section;

(N) Compensation paid to officers attributable to services performed in connection with particular activities (but not including any cost of selling);

(O) Insurance, such as insurance on plant, machinery or equipment, or insurance on the subject matter of the activity;

(P) Contributions paid to or under a stock bonus, pension, profit-sharing or annuity plan, or other plan deferring the receipt of compensation whether or not the plan qualifies under section 401(a) (except for amounts described in paragraph (b)(2)(v)(H) of this section), and other employee benefit expenses paid or accrued on behalf of labor, to the extent such contributions or expenses are otherwise allowable as deductions under chapter 1 of the Code. "Other employee benefit expenses" include (but are not limited to): worker's compensation; amounts deductible or for whose payment reduction in earnings and profits is allowed under section 404A and the regulations thereunder; payments pursuant to a wage contribution plan under section 105(d) as it existed prior to its repeal in 1983; amounts includible in the gross income of employees under a method or arrangement of employer contributions or compensation which has the effect of a stock bonus, pension, profit-sharing or annuity plan, or other plan deferring receipt of compensation or providing deferred benefits; premiums on life and health insurance; and miscellaneous benefits provided for employees such as safety, medical treatment, recreational and eating facilities, membership dues, etc.;

(Q) Rework labor, scrap and spoilage;

(R) Bidding expenses incurred in the solicitation of contracts, (including contracts pertaining to property acquired for resale) ultimately awarded to the taxpayer. For purposes of this section the term "bidding expenses" does not include any research and experimental expenses described in section 174 and the regulations thereunder. The taxpayer shall defer all bidding expenses paid or incurred in the solicitation of a particular contract until the contract is awarded. If the contract is awarded to the taxpayer, the bidding costs become part of the indirect costs allocated to the costs of the subject matter of the contract. If the contract is not awarded to the taxpayer, bidding costs become deductible in the taxable year the contract is awarded, or in the taxable year the taxpayer is notified in writing that no contract will be awarded and that the contract (or a similar or related contract) will not be re-bid, or in the taxable year that the taxpayer abandons its bid or proposal, whichever occurs first. Abandoning a bid does not include modifying, supplementing, or changing the original bid or proposal. If the taxpayer is awarded only part of the bid (for example, the taxpayer submitted one bid to build each of two different types of products and the taxpayer was awarded a contract to build only one of the two products), the taxpayer shall deduct the portion of the bidding expense related to the portion of the bid not awarded to the taxpayer. In the case of a bid or proposal for a multi-unit contract, however, all the bidding expenses shall be included in the costs allocated to the subject matter of the contract awarded to the taxpayer to produce or acquire for resale any of such units (for example, where the taxpayer submitted one bid to produce three similar turbines and the taxpayer was awarded a contract to produce only two of the three turbines);

(S) Engineering and design expenses (to the extent that such amounts are not research and experimental expenses as described in section 174 and the regulations thereunder); and

(T) To the extent not previously described as a direct or indirect cost subject to capitalization, the following items incurred with respect to production or resale activities:

(*1*) Storage and warehousing costs;

(*2*) Purchasing costs;

(*3*) Handling, processing, assembly, and repackaging costs; and

(*4*) A portion of general and administrative costs allocable to these functions.

(See paragraph (d)(3)(ii) of this section for definitions of these various types of costs with respect to property acquired for resale. Principles which are similar to the provisions of paragraph (d)(3)(ii) of this section shall apply in defining these various types of costs with respect to production activities).

(iv) *Allocation of interest expense to production activities*—(A) *In General.* Interest on debt incurred or continued to finance the production of real or tangible personal property to which this section otherwise applies must be capitalized, as provided in this paragraph. (Interest on debt incurred or continued to finance the acquisition and holding of property for resale is not required to be capitalized under this section). Interest paid or incurred during the production period must be capitalized if the property produced is:

(*1*) Real property;

(*2*) Personal property determined under section 168 to have a class life of 20 years or more;

(*3*) Personal property with an estimated production period in excess of 2 years; or

(*4*) Personal property with an estimated production period in excess of 1 year if the estimated cost of production exceeds $1 million.

For purposes of this paragraph, the production period begins on the date production of the property begins and ends on the date the property is ready to be placed in service or ready to be held for sale.

(B) *Avoided cost method.* The determination of the amount of debt that is treated as incurred or continued to finance production is based on the amount of interest expense that would have been avoided if production expenditures had not been made and the amount of such expenditures were used to repay the indebtedness of the taxpayer. Debt that can be specifically traced to a production activity must first be allocated to that activity. To the extent that production expenditures exceed the amount of debt specifically traceable to that production activity, other debt of the taxpayer is to be treated as allocable to the production activity. The interest rate to be applied to such additional allocable debt is the weighted average of the interest rates on the taxpayer's debt outstanding during the production period, other than debt specifically traced to a production activity. For purposes of this paragraph (b)(2)(iv)(b), production expenditures are those costs, including interest expense capitalized during the production period, required to be capitalized with respect to production under the rules of this section, without regard to whether such costs are incurred during the production period of the property to which the costs relate. (*E.g.*, production expenditures include planning and design activities which are generally incurred before the production period commences, as well as the costs of raw land and materials acquired before the production period commences).

(C) *Advance payments.* If production is undertaken for a customer who agrees to make progress payments or advance payments (or any other payments serving a similar purpose), for property to be held for sale to customers, or used in a trade or business or activity conducted for profit, the customer is treated as producing the property to the extent such progress payments or advance payments are made. (See paragraph (a)(5)(ii) of this section.) Moreover, the customer is treated as producing the property to the extent that the taxpayer incurs other costs (e.g., general and administrative costs) with respect to the property under production. Thus, interest on indebtedness incurred or continued during the production period to finance the payments made (and costs incurred) by the customer must be capitalized by the customer if such property is described in paragraph (b)(2)(iv)(A) of this section. In addition, the taxpayer producing the property for the customer must capitalized interest costs with respect to the property produced under the provisions of this paragraph to the extent that the production expenditures incurred by the taxpayer exceed the accumulated payments received from the customer with respect to such property.

(D) *Property used in production process.* Interest on debt incurred or continued to finance any asset (e.g., manufacturing equipment and facilities) that is used in the production or property described in paragraph (b)(2)(iv)(A) of this section shall be capitalized to the extent that such interest is paid or incurred during the production period of the property. The determination of the amount of debt that is treated as incurred or continued to finance any asset, and the interest attributable to such debt, shall be determined under the provisions of paragraph (b)(2)(iv)(B) of this section. Where an asset is used in the production of property and for other purposes, only the portion of such interest properly allocable to the production activity shall be capitalized.

(v) *Costs not capitalized.* Costs which are not required to be capitalized with respect to production or resale activities include amounts incurred for:

(A) Marketing, selling, advertising and distribution expenses;

(B) Bidding expenses incurred in the solicitation of contracts not awarded to the taxpayer;

(C) General and administrative expenses (but not including any cost described in paragraph (b)(2)(iii) (L) or (M) of this section), and compensation paid to officers attributable to the performance of services that do not directly benefit or are not incurred by reason of a particular production activity;

(D) Research and experimental expenses (described in section 174 and the regulations thereunder);

(E) Losses under section 165 and the regulations thereunder;

(F) Depreciation, amortization and cost recovery allowances on equipment and facilities that have been placed in service but are temporarily idle (for this purpose, an asset is not considered to be temporarily idle on non-working days, and an asset used in construction is considered to be idle when it is not enroute to or located at a job-site);

(G) Income taxes;

(H) (*1*) Contributions paid to or under a pension or annuity plan allowable as a deduction under section 404 (and section 404A if applicable) to the extent such contributions represent past service costs as determined under the particular funding method established for the plan for the period in question under the provisions of section 412;

(*2*) [Reserved.]

(I) Cost attributable to strikes; and

(J) Repair expenses that do not relate to the manufacture, or production of property.

(vi) *Costs provided by a related person.* (A) Any taxpayer engaging in production or resale activities shall capitalize any direct or indirect costs properly allocable to such activities although the materials, labor, or services (the "items") constituting the costs in question are provided to the taxpayer by a related person for a price which is less than the arm's length charge for such items. In such a situation, both the taxpayer and the related person shall account for the transaction for federal income tax purposes as if the taxpayer purchased the items in question for their arm's length charge from the related person. Thus, for example, the taxpayer shall capitalize an amount equal to the arm's length charge for such items and the related person shall include in income an amount equal to such arm's length charge.

(3) The provisions of this paragraph (b)(2)(vi) shall not apply if, and to the extent, the transaction is properly accounted for in such a manner as to result in the capitalization (or deferral of the deduction) of the costs of the items by the related party, and the related party does not deduct such costs earlier than the time that the costs would have been deducted by the taxpayer had the costs been initially capitalized by the taxpayer. Thus, for example, the provisions of this paragraph (b)(2)(vi) shall not apply if, and to the extent, that the transaction is treated as a deferred intercompany transaction under § 1.1502-13, and the gain or loss is deferred by the selling member under that section. In addition, the provisions of this paragraph (b)(2)(vi) shall not apply if, and to the extent, it would not be appropriate under the principles of section 482 for the Commissioner to adjust the income of the taxpayer or the related person with respect to the transaction at issue.

(C) For purposes of this paragraph (b)(2)(vi), an "arm's length charge" for an item shall mean the arm's length charge (or other appropriate charge, where applicable) established under the principles of section 482. Thus, for example, the term "arm's length charge" may refer to the cost of an item, if such treatment is allowed under the principles of section 482. In addition, the principles of section 482 shall apply in determining the various correlative adjustments which shall occur by reason of the required accounting treatment of these transactions. For purposes of this paragraph (b)(2)(vi), a taxpayer shall be related to another person if the taxpayer and such person are described in section 482 of the Code.

(vii) *Practical capacity.* [Reserved.]

(viii) *Examples.*

Example (1). The taxpayer A, owns and operates a manufacturing facility which produces tangible personal property, the costs of which are subject to the capitalization rules of this section. Normally, two separate shifts of production workers are employed at the facility during a typical work day. However, for various business reasons, during a particular period of time, none of the production workers report for work at the facility, and the facility is not used during any of the normally scheduled work days in such period. Under this section, the facility is considered to be temporarily idle for purposes of paragraph (b)(2)(v)(F) of this section, and thus A is allowed to expense depreciation, amortization, and cost recovery allowances on the facility and the equipment contained therein with respect to the normally scheduled work days for which the facility and equipment are completely idle.

Example (2). Assume the same facts as in example (1), except that, for various business reasons, during a particular period of time, only one shift of production workers report for work at the facility, and the facility is not used for the duration of the remaining work day. Under this section, the facility is not considered to be temporarily idle for purposes of paragraph (b)(2)(v)(F) of this section.

Example (3). The taxpayer B, owns and operates a manufacturing facility which produces tangible personal property, the costs of which are subject to the capitalization rules of this section. The facility normally runs 24 hours a day, and typically produces 1000 units of product for each day's operations. However, for various business reasons, during a particular period of time, the facility continues to operate 24 hours a day, but only produces 700 units of product for each day's operations. The same result occurs as in example (2), *i.e.*, the facility is not considered to be temporarily idle for purposes of paragraph (b)(2)(v)(F) of this section.

(3) *Allocation methods*—(i) *Direct labor.* Direct labor costs incurred during the taxable year shall generally be allocated to or among activities using a specific identification (or "tracing") method. However, direct labor costs may be allocated to or among particular activities using any method, provided that the method employed reasonably allocates direct labor costs among such activities. For the purpose of allocating elements of direct labor cost (other than basic compensation) to particular activities, all such cost elements may be grouped together and then allocated to or among activities in proportion to the charge for basic compensation. Under this paragraph, a taxpayer must capitalize all of its direct costs. Nevertheless, a taxpayer will not be treated as using an incorrect method of accounting if the taxpayer treats any direct costs as indirect costs, provided such costs are capitalized to the extent provided by paragraph (b)(3)(iii) of this section. Thus, for example, a taxpayer may treat direct labor costs as part of indirect costs (for example, by use of the conversion cost method), provided all such costs are capitalized as provided by paragraph (b)(3)(iii) of this section.

(ii) *Direct materials.* The cost of direct materials shall generally be allocated to the activity for that year, using the taxpayer's method of accounting for the inventories containing such materials (e.g., specific identification, FIFO, LIFO). Direct materials which are not accounted for under the provisions of the preceding sentence shall be allocated to an activity using a tracing method or any other method which reasonably allocates such direct material costs among activities.

(iii) *Indirect costs*—(A) *In general.* (*1*) The indirect costs required to be allocated to or among production or resale activities under paragraph (b)(2) of this section shall be allocated to particular activities using either a specific identification (or "tracing") method, the standard cost method, or a method using burden rates (such as ratios based on direct costs, hours, or other items, or similar formulas), so long as the method employed for such allocation reasonably allocates indirect costs among production or resale activities. Indirect costs may ordinarily be allocated to production and resale activities on the basis of direct labor and material costs, direct labor hours, or any other basis which results in a reasonable allocation of such indirect costs.

(*2*) An allocation method under this paragraph (b)(3) will not be considered to be reasonable if such method does not result in the capitalization of all costs that directly benefit or are incurred by reason of the performance of production or resale activity as described in paragraph (b)(2)(ii) of this section. However, an allocation method that fails to meet these requirements may be used by the taxpayer if, with respect to the taxpayer's production or resale activities taken as a whole—

(*i*) The total amounts of such costs which the taxpayer capitalizes during the taxable year do not differ significantly (with appropriate consideration being given to the volume of the taxpayer's production or resale activities) from the total amounts which would be capitalized under the requirements of the preceding sentence; and

(*ii*) The allocation method is applied consistently by the taxpayer, and does not result in a significantly disproportionate allocation of costs to production or resale activities in such a manner as to circumvent the principles of this section.

The principles of this paragraph (b)(3)(iii)(A)(*2*) shall also be applicable with respect to the use of the simplified production method (as described in paragraph (b)(5) of this section), the simplified service cost method (as described in paragraph (b)(6) of this section), and the simplified resale method (as described in paragraph (d)(3) of this section). Thus, the use of various allocation procedures under those methods shall be permitted although such procedures may otherwise fail to meet the respective requirements of those methods, if the procedures satisfy the requirements of this paragraph (b)(3)(iii)(A)(*2*).

(*3*) In the event that the allocation methods (such as burden rates, or the standard cost method) utilized by a taxpayer under its method of accounting

prior to the effective date of the Tax Reform Act of 1986 do not result in the allocation of sufficient amounts of indirect costs to production or resale activities under this section:

(*i*) The taxpayer shall change its burden rates, standard costs, or other methods, to increase the amount of indirect costs being allocated to production or resale activities; or

(*ii*) The taxpayer may retain the use of its present burden rates, standard costs, or other methods, but shall adopt further methods (including, but not limited to, additional burden rates or standard costs), to ensure that adequate amounts of indirect costs are allocated to production or resale activities.

(B) [Reserved.]

(C) *Burden rates.* (*1*) *In general.* Burden rates may be developed in accordance with acceptable accounting principles and applied in a reasonable manner. If a taxpayer chooses, it may allocate different indirect costs on the basis of different burden rates. Thus, for example, the taxpayer may use one burden rate for allocating rent and another burden rate for allocating utilities. Any change in a burden rate which is merely a periodic adjustment to reflect current operating conditions, such as increases in automation or changes in operation, does not constitute a change in method of accounting under section 446. However, a change in the concept under which such rates are developed does constitute a change in method requiring the consent of the Commissioner, except as provided in paragraph (e) of this section. The taxpayer shall maintain adequate records and working papers to support all burden rate calculations.

(*2*) *Development of burden rates.* The following factors, among others, may be taken into account in developing burden rates:

(*i*) The selection of an appropriate level of activity and period of time upon which to base the calculation of rates which will reflect operating conditions for purposes of unit costs being determined;

(*ii*) The selection of an appropriate statistical base such as direct labor hours, direct labor dollars, or machine hours, or a combination thereof, upon which to apply the overhead rate to determine costs; and

(*iii*) The appropriate budgeting, classification and analysis of expenses (for example, the analysis of fixed and variable costs).

(*3*) *Operation of the burden rate method.* The purpose of the burden rate method is to allocate an appropriate amount of indirect costs to production or resale activities through the use of predetermined rates intended to approximate the actual amount of indirect costs incurred. Accordingly, the proper use of the burden rate method under this section requires that any net negative or net positive difference between the total predetermined amount of costs allocated to property and the total amount of indirect costs actually incurred and required to be allocated to such property (i.e., the under or over-applied burden) must be treated as an adjustment to the taxpayer's ending inventory or capital account (as the case may be) in the taxable year in which such difference arises. However, if such adjustment is not significant in amount in relation to the taxpayer's total indirect costs incurred with respect to production or resale activities for the year, then such adjustment need not be allocated to the property produced or acquired for resale unless such allocation is made in the taxpayer's financial reports. The taxpayer must treat both positive and negative adjustments consistently.

(D) *Standard cost method.* (*1*) *In general.* A taxpayer may use the "standard cost" method of allocating costs, provided that variances are treated in accordance with the procedures prescribed. For purposes of this section, a "net positive overhead variance" shall mean the excess of total standard indirect costs over total actual indirect costs and a "net negative overhead variance" shall mean the excess of total actual indirect costs over total standard indirect costs.

(*2*) *Treatment of variances.* The proper use of the standard cost method requires that a taxpayer must reallocate to property a pro rata portion of any net negative or net positive overhead variances and any net negative or net positive direct cost variances. The taxpayer must apportion such variances to or among the property to which the costs are allocable. However, if such variances are not significant in amount in relation to the taxpayer's total indirect costs incurred with respect to production and resale activities for the year, then such variances need not be allocated to property produced or acquired for resale unless such allocation is made in the taxpayer's financial reports. The taxpayer must treat both positive and negative variances consistently.

(*4*) *Allocation of administrative, service, or support costs to activities*—(i) *Introduction.* If a function or department of the taxpayer incurs costs that directly benefit particular production or resale activities of the taxpayer, the costs of such function or department are allocable to such activities. See paragraph (b)(3) of this section. However, if a function or department incurs costs that do not directly benefit particular production or resale activities but rather, for example, benefit only the overall management or policy guidance functions of the taxpayer, the costs incurred by such function or department are not allocable to production or resale activities. In some cases, the costs incurred by a function or department may directly benefit particular production or resale activities as well as the taxpayer's other functions, such as overall management or policy guidance functions. In such cases, the taxpayer shall reasonably allocate the costs of such function or department between the taxpayer's production or resale activities and the taxpayer's other functions. Paragragh (b)(3)(iii) and (4)(iii) of this section provide guidance as to what constitutes a reasonable method of allocating these costs.

(ii) *General rule.* The total direct and indirect costs ("service costs") of administrative, service, or support functions or departments ("service departments") that directly benefit a particular production or resale activity shall be directly allocated to such activity; if service costs directly benefit more than one production or resale activity, then such costs shall be allocated to particular activities under the principles of this paragraph. The service costs that benefit production or resale activities as well as other functions ("mixed service costs") shall be allocated to particular activities or functions on the basis of a factor or relationship that reasonably relates the incurring of the service cost to the benefits received by the activity. In general, the direct costs of a service department include costs that can be identified specifically with the services provided by the department, and the indirect costs of a service department include costs not identified specifically with the services provided by the function or department, but incurred by reason of the direct costs of the function or department. Such direct and indirect costs include, but are not limited to, compensation (including compensation referred to in paragraph (b)(2)(i) of this section) of employees directly engaged in performing the services provided by the department, travel, materials and supplies consumed by the department, supervisory and clerical compensation, occupancy costs (rents or an allocable share of depreciation and property taxes), depreciation or rent of office machines, utilities, telephone, and other department overhead. The types of

activities that are administrative, service or support functions or departments are not predetermined, but depend upon the facts and circumstances of each taxpayer's activities and business organization. In a decentralized business organization, all costs incurred at higher levels, for example, at a parent corporation or organization or at the headquarters of a subsidiary corporation or division, are not necessarily general and administrative expenses (as described in paragraph (b)(2)(v)(C) of this section) with respect to particular activities.

(iii) *Rules for allocation of service costs.* The taxpayer shall allocate the total direct and indirect costs of a service department to activities by applying consistently any reasonable method of cost allocation as described in paragraph (b)(3)(iii) of this section. (However, for purposes of this section, a method shall not be considered to be reasonable if such method effectively allocates service department costs to other service departments in such a manner as to avoid the eventual reallocation of such costs to production and resale activities if such reallocation would be otherwise required under the principles of this section). The following methods are provided as examples of reasonable methods for allocating service department costs under this section. Any other reasonable method, as described in paragraph (b)(3)(iii) of this section, may also be used to allocate such service department costs under this section.

(A) *Direct reallocation method.* The direct reallocation method, whereby the total costs (direct and indirect) of all service departments are allocated only to departments or cost centers engaged in production or resale activities and then from those departments to particular activities. This direct reallocation method ignores benefits provided by one service department for other service departments, and also excludes such other service departments from the base used to make the allocation; or

(B) *Step-allocation.* The step-allocation method, whereby a sequence of allocations is made beginning with the allocation to other service departments and to departments engaged in the performance of production or resale activities, of the total costs (direct and indirect) of the service departments, and ending with the allocation of the total costs (including the costs allocated to it from the other service departments) of the service department that provides benefits to the least number of other service departments. Under this allocation method, the cost of service departments allocated properly to functions or departments that are not service departments or departments performing the production or resale activities (for example, payroll costs allocated to a financial planning function or department) are not reallocated to any other service department or department performing the activities. The taxpayer shall then allocate the costs of the departments performing the activities (including the reallocated service department costs) to particular production or resale activities.

(iv) *Relationship of service costs to benefits received.* Factors or relationships that relate the incurring of service costs to the benefits received by particular production or resale activities include measures based upon the total output of the service department (for example, the approximate amount of service hours or the approximate number or the dollar value of transactions provided to an activity as a fraction of the total amount of service hours or the total amount or the total dollar volume of transactions provided by the department), or measures based upon the relative size of the production or resale activity to the size of the taxpayer's other activities (for example, the number of direct labor employees or direct labor hours or direct labor costs (as referred to in paragraph (b)(2)(i) of this section) incurred in connection with a particular activity as a fraction of the total amount of direct labor costs incurred by the taxpayer in all activities).

(v) *Additional requirements.* (A) The amount of administrative, service, or support costs required to be allocated under this section include the costs of purchasing such services from a third person. In the case of services performed by a related party, see paragraph (b)(2)(vi) of this section for the accounting treatment required of such transactions. In addition, if pursuant to section 482 and the regulations thereunder the district director makes an allocation of income or deductions between members of a group of controlled entities to reflect the performance of services or the provision of materials, equipment or facilities at other than an arm's length charge, any taxpayer that is affected by such allocation is required to take such allocation into account in making the taxpayer's allocation to production and resale activities of the costs of administrative service or support functions or departments.

(B) If the taxpayer establishes to the satisfaction of the district director that all of a particular type of administrative, service or support function is performed only at a particular jobsite or location (that is, at the offices of a production plant, warehouse, storage facility, or at a construction site), then all the direct and indirect costs of such function incurred at the jobsite or location shall be directly allocated to each particular activity performed at that jobsite or location, and no further allocation of that type of cost shall be required.

(C) Regardless of the particular allocation method being used by the taxpayer to allocate service costs, the taxpayer shall maintain the records used to make service cost allocations so that the allocations may be readily examined and verified by the district director. The taxpayer shall also maintain records describing the types of costs that the taxpayer has deducted currently under paragraph (b)(2)(v)(C) of this section (general and administrative expenses), so that the amount, nature, and allocation of such costs may be verified readily by the district director. A change in the method or base used in allocating such service costs (such as changing from an allocation base using direct labor cost to a base using direct labor hours), or a change in the taxpayer's determination of what functions or departments of the taxpayer are required or not required to be allocated is a change in method of accounting to which section 446(e) and the regulations and procedures thereunder apply. See § 1.446–1 (e) and paragraph (e)(11) of this section.

(vi) *Illustration of types of activities with respect to which costs ordinarily are required to be allocated.* Costs incurred by the following types of functions or departments ordinarily are required to be allocated among production or resale activities:

(A) The administration and coordination of production and resale activities (wherever performed in the business organization of the taxpayer);

(B) Personnel operations, including the cost of recruiting, hiring, relocating, assigning, and maintaining personnel records or employees;

(C) Purchasing operations, including purchasing materials and equipment, scheduling and coordinating delivery and return of materials and equipment to or from factories or jobsites, and expediting and follow-up;

(D) Materials handling and warehousing and storage operations;

(E) Accounting and data services operations, including cost accounting,

accounts payable, disbursements, billing, accounts receivable and payroll;

(F) Data processing;

(G) Security services; and

(H) Legal departments.

(vii) *Illustration of types of activities with respect to which costs ordinarily are not required to be allocated.* Costs incurred by the following types of functions or departments ordinarily are not required to be allocated to particular activities:

(A) Functions or departments responsible for overall management of the taxpayer, or for setting overall policy for all of the taxpayer's activities or trades or businesses (such as the board of directors (including their immediate staff), and the chief executive, financial, accounting and legal officers (including their immediate staffs) of the taxpayer, provided that no substantial part of the cost of such departments or functions directly benefit a particular production or resale activity;

(B) General business planning;

(C) Financial accounting (including the accounting services required to prepare consolidated reports, but not including any accounting for particular production or resale activities);

(D) General financial planning (including general budgeting) and financial management (including bank relations and cash management);

(E) General economic analysis and forecasting;

(F) Internal audit;

(G) Shareholder, public and industrial relations;

(H) Tax department;

(I) Other departments or functions that are not responsible for day-to-day operations but are instead responsible for setting policy and establishing procedures to be used with respect to all of the taxpayer's activities or trades or businesses, as described in paragraph (b)(4)(viii) of this section; and

(J) Marketing, selling, or advertising.

(viii) *Policy and overall management services.* Examples of such departments or functions that are responsible for setting policy and establishing procedures applicable to all of the taxpayer's activities or trades or businesses (see paragraph (b)(4)(vii)(I) of this section) are:

(A) Personnel policy (such as establishing and managing personnel policy in general, developing general wage, salary and benefit policies, developing employee training programs unrelated to particular activities, negotiations with labor unions and relations with retired workers);

(B) Quality control policy;

(C) Safety engineering policy;

(D) Insurance or risk management policy (but not including bid or performance bonds or insurance related to particular activities); and

(E) Environmental management policy. However, the cost of establishing any system or procedure that will only benefit a particular production or resale activity shall be directly allocated to such activity.

(F) [Reserved.]

(ix) *Costs not described.* The costs of any administrative, service or support function or department of the taxpayer not described in paragraph (b)(4) of this section are required to be allocated to particular production or resale activities to the extent that the nature of the benefits provided by such function or department more closely resembles the type of benefits described in paragraph (b)(4)(vi) of this section than the type of benefits described in paragraph (b)(4)(vii) of this section.

(x) *Illustrations of the allocations required by this paragraph (b)(4).* The following illustrate the types of considerations that are to be taken into account in making the allocations required by paragraph (b)(4)(iii) of this section. The Taxpayer need not use the same method to allocate a particular type of administrative, service or support cost as the method described in these illustrations provided that the method used by the taxpayer is reasonable. See paragraph (b)(4) of this section. In addition, the particular allocation methods illustrated herein may be used to allocate other types of services costs not illustrated in this paragraph.

(A) *Security services.* The cost of security or protection services benefit all areas covered by the services and should be allocated to each physical area that receives the service in proportion either to the size of the physical area, number of employees in the area, or the relative fair market value of assets located in the area, or on any other reasonable basis applied consistently. That part of the total cost allocable to a factory, warehouse, or jobsite where only one activity is performed shall be directly allocated to that activity. The treatment of the cost of security services allocable to other service departments depends upon the method of allocation adopted by the taxpayer under paragraph (b)(4)(iii) of this section.

(B) *Legal services.* The cost of a legal department to include rent (or an allocation of building depreciation and occupancy costs), travel, office machines, supplies, telephone, library, and other overhead and the compensation of the attorneys and other employees assigned to the department. For this purpose compensation described in paragraph (b)(2) of this section. These costs only benefit activities of the taxpayer which require legal services. These costs are generally allocable directly to a particular activity on the basis of the approximate number or hours of legal service (including research) performed in connection with the activity, including bidding, negotiating, drafting, or reviewing a contract (including subcontracts and supply contracts), obtaining necessary licenses and permits, and in resolving disputes, termination claims or disputes arising from the performance of the activity. Different hourly rates may be appropriate for different services. In determining the number of hours allocable to any activity, approximations are appropriate, detailed time records need not be kept, and insubstantial amounts of services provided to an activity by senior legal staff as an administrator or a reviewer may be ignored The taxpayer shall also allocate directly to an activity the cost of any outside legal services provided. Instead of an allocation based upon total hours of legal services provided to an activity, the taxpayer may choose to allocate the costs of a legal department to particular activities on the basis of total direct costs (as described in paragraph (b)(2)(i) of this section) incurred with respect to each activity as a fraction of the total direct costs incurred with respect to all production or resale activities. Legal activities relating to general corporate functions, financing, securities law, compliance, antitrust law compliance, tax compliance, industrial relations, compliance with laws and regulations not related to particular activities, after-the-fact review of contracts to insure compliance with company policies, patents and licensing unrelated to particular activities, and similar general legal functions are not required to be allocated to particular activities.

(C) *Centralized payroll department.* The cost of a payroll department includes rent (or an allocation of building depreciation and occupancy costs), office machines, supplies, telephones and other overhead and compensation of employees assigned to the department. The department cost may also include the cost of data processing and file maintenance, or this cost may be incurred by a separate data processing or records department and allocated to the payroll department. Payroll service costs benefit any department, including other service departments, incurring labor costs. The

cost of payroll department is generally allocated on the basis of the gross amount of payroll processed.

(D) *Centralized data processing.* The cost of a data processing department includes rent or depreciation of data processing machines, supplies, rent (or an allocation of building depreciation and occupancy costs), power, telephone and other overhead, and the compensation of employees assigned to the department. These costs benefit all departments that require data processing services. Data processing costs are generally allocated based upon the number of data processing hours supplied. Other reasonable bases, such as an allocation based upon total direct cost, may also be used. The costs of data processing systems developed for a particular activity shall be directly allocated to such activity.

(E) *Engineering and design services.* The cost of an engineering or design department includes rent (or an allocation of building depreciation and occupancy costs), travel, office machines, supplies, telephones, library, and other overhead, and compensation of employees assigned to the department. Unless the engineering and design services are properly accounted for separately, the cost of engineering or design service departments generally is directly allocable to an activity on the basis of the approximate number of hours or work performed with respect to a particular activity as a fraction of the total hours of engineering or design work performed for all activities. Different services may be allocated at different hourly rates. Engineering and design services may also be treated as direct costs of an activity, provided that the taxpayer also treats all engineering and design overhead as direct or indirect costs of the activity.

(F) *Safety engineering.* The cost of a safety engineering department includes the compensation paid to employees assigned to the department, rent (or an allocation of building depreciation and occupancy costs), travel, office machines, supplies, telephones, library, and other overhead. These costs benefits all activities of the taxpayer and should be allocated to particular activities on the basis of the approximate number of safety inspections made in connection with a particular activity as a fraction of total inspections, or on basis of the number of employees assigned to an activity as a fraction of total employees or on the basis of total labor hours worked in connection with an activity as a fraction of total hours, whichever is most reasonable. The cost of a safety engineering department responsible only for setting safety policy and establishing safety procedures to be used in all of the taxpayer's activities is not required to be allocated. However, in determining the total costs of safety engineering department to be allocated, costs attributable to providing a safety program only for a particular activity shall be directly assigned to such activity.

(5) *Simplified method of accounting for production costs*—(i) *In general.* Taxpayers may elect to use the "simplified production method" permitted under this paragraph (b)(5) to account for the additional costs required to be capitalized under this section with respect to property produced by the taxpayer that is:

(A) Stock in trade of the taxpayer or other property that is properly includable in the inventory of the taxpayer; or

(B) Property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business.

The simplified production method is not available with respect to property acquired for resale, property constructed by a taxpayer for use in its trade or business, property produced under a long-term contract, or any other property produced by a taxpayer that is not described in section 1221(1) of the Internal Revenue Code. In the case of a single trade or business that consists of operations including both production of property and the acquisition of property for resale, the simplified production method, if elected, must be applied with respect to all operations of the particular trade or business. In such a case, a taxpayer is not permitted to apply the simplified production method to only a portion of the operations of such trade or business. In addition, the taxpayer may not apply the simplified resale method to any portion of such trade or business.

(ii) *Allocation of additional section 263A costs.* Under the simplified production method, additional section 263A costs are to be allocated to inventory or other property based on the ratio of the taxpayer's total additional section 263A costs incurred during the taxable year to the taxpayer's total section 471 costs incurred during the taxpayer's total year (the "absorption ratio"). (See paragraph (b)(5)(iii) of this section for definitions of the certain terms used in this paragraph (b)(5)(ii)). The amount of additional section 263A costs required to be capitalized is computed by multiplying the absorption ratio times the amount of section 471 costs remaining in the taxpayer's ending "section 471 inventory balance" that are treated as costs incurred during the taxable year under the taxpayer's method of accounting (e.g., the last-in, first-out method or "LIFO"). Thus, in the case of a taxpayer using the LIFO method of accounting, the absorption ratio is applied to the increase (LIFO increment), if any, in the taxpayer's ending section 471 balance for the taxable year. In the case of a taxpayer using the first-in, first-out ("FIFO") method of accounting, the absorption ratio is applied to the amounts of section 471 costs remaining in the taxpayer's ending section 471 balance that are treated as having been incurred in the taxable year.

(iii) *Definitions.* Additional section 263A costs are those costs, other than interest, that were not capitalized or included in inventory costs under the taxpayer's method of accounting immediately prior to the effective date of this section, but that are required to be capitalized under this section. (See paragraph (b)(2)(iv) of this section for the rules relating to the allocation of interest expense.) Although such additional section 263A costs are allocated under the simplified production method permitted in this paragraph (b)(5), such costs shall otherwise be treated as inventory costs for all purposes of the Code except as provided herein. For purposes of this paragraph (b)(5), the costs capitalized or included in inventory costs under the taxpayer's method of accounting immediately prior to the effective date of this section shall be referred to as "section 471 costs". Thus, if a taxpayer included a particular cost described in § 1.471–11(c)(2)(iii) in inventory, such cost is also required to be included in the taxpayer's inventory as a section 471 cost for purposes of this paragraph (b)(5). For purposes of this paragraph (b)(5), the taxpayer's section 471 inventory balance is the balance of section 471 costs, determined without the inclusion of any additional section 263A costs. (Morever, the term "section 471 costs" shall include any cost includable in production costs under the taxpayer's prior method regardless of whether such prior method required the absorption of costs to inventories under § 1.471–11).

(iv) *LIFO indexes.* In the case of a taxpayer using the LIFO method of accounting for inventories, the calculation of a particular year's index is to be made without regard to the additional section 263A costs. Similary, the taxpayer shall disregard the additional section 263A costs in

adjusting current year costs by the applicable indexes, in determining whether there has been an inventory increment or decrement for the current year in question for the particular LIFO pool. If the taxpayer determines that there has been an inventory increment, then the taxpayer shall state the amount of the increment in current year dollars, and then multiply the resulting amount by the absorption ratio, as previously described. The resulting product is equal to the amount of the additional section 263A costs which the taxpayer is required to capitalize in ending inventory. If the taxpayer determines that there has been an inventory decrement, then the taxpayer shall state the amount of the decrement in dollars applicable to the particular year for which the LIFO cost or layer has been invaded. The additional section 263A costs, incurred in prior years, which are applicable to the decrement shall be charged to cost of goods sold. The additional section 263A costs which are applicable to the decrement are determined by multiplying the total amount of such section 263A costs allocated to the layer of the particular pool in which the decrement occurred, by the ratio of the decrement to the total section 471 costs (excluding, therefore, additional section 263A costs) in the layer for such pool.

(v) *Examples.* The operation of the simplified production method is illustrated in the following examples:

Example (1). The taxpayer A, uses the first-in, first-out (FIFO) method of accounting for inventories. A includes in inventoriable costs under its section 471 method of accounting (i) direct production costs as described in § 1.471–11(b)(2) ("full absorption direct costs"), and (ii) indirect production costs described in § 1.471–11(c)(2)(i) ("category 1 costs"). All other costs incurred by A are excluded from section 471 costs under A's method of accounting, including costs described in § 1.471–11(c)(2) (ii) and (iii) ("category 2" and "category 3" costs respectively). A determines, pursuant to this section, that it incurred $1 million of additional section 263A costs during the taxable year. Furthermore, assume that A had a beginning section 471 inventory balance (consisting of its full absorption direct costs and category 1 costs) of $2 million, incurred $10 million of such section 471 costs during the year, and had an ending section 471 inventory balance of $3 million. The absorption ratio for the year is equal to 10 percent, i.e., additional section 263A costs of $1 million, divided by section 471 costs incurred during the taxable year of $10 million. All of A's costs in ending inventory are viewed as section 471 costs incurred during the taxable year. Thus, for each dollar in the ending section 471 inventory balance, A must capitalize 10 cents of additional section 263A costs. Ending inventory for the taxable year would be increased by $300,000. The balance of the taxpayer's additional section 263A costs would be viewed as included in cost of goods sold.

Example (2). The taxpayer B uses the last-in, first-out (LIFO) method of accounting for inventories. B includes in inventoriable costs under its section 471 method of accounting: (i) full absorption direct costs, (ii) category 1 costs, and (iii) certain category 3 costs. B determines, pursuant to this section, that it incurred $1 million of additional section 263A costs during the taxable year. Furthermore, assume that B had a beginning section 471 inventory balance (consisting of full absorption direct costs, category 1 costs, and certain category 3 costs) of $2 million, incurred $10 million of such section 471 costs during the year, and had an ending balance of section 471 costs of $3 million. The absorption ratio for the year is equal to 10 percent, *i.e.*, additional section 263A costs of $1,000,000, divided by section 471 costs incurred during the taxable year of $10 million. The increase in B's section 471 inventory balance for the taxable year is $1 million. Thus, B must capitalize $100,000 of additional section 263A costs in ending inventory (*i.e.*, .10 times $1,000,000). The balance of B's additional section 263A costs would be included in cost of goods sold for the taxable year. Assume that in the following taxable year, B is viewed as disposing of inventory acquired in the preceding year having section 471 costs of $500,000. B would be required to include, in cost of goods sold, a proportional amount of its additional section 263A costs for such preceding year, i.e., $50,000 (.10 times $500,000).

Example (3). The taxpayer R begins its trade or business in Year 1, and uses the LIFO method of accounting for inventories. R includes in inventoriable costs under its section 471 method of accounting: (i) full absorption direct costs, and (ii) category 1 costs. R determines, pursuant to this section, that it incurred $1,000 of additional section 263A costs during the taxable year. Furthermore, assume that R had no beginning section 471 inventory balance (due to entering the trade or business in Year 1), incurred $10,000 of such section 471 costs during the year, and had an ending balance of section 471 costs of $3,000, contained in three LIFO pools (A, B, and C). R allocates its additional section 263A costs for taxable Year 1 in the following manner:

Year 1

Additional section 263A costs, $1,000 divided by Section 471 costs, $10,000 equals 10% absorption ratio

	Total	A	B	C
Year 1				
Ending section 471 balance	$3,000	$1,600	$600	$800
Absorption ratio	.10	.10	.10	.10
Current additional section 263A costs	300	160	60	80
Final ending inventory balance	3,300	1,760	660	880

In Year 2, R incures $400 of additional section 263A costs and $2,000 of section 471 costs. Moreover, R has $1,000 of section 471 cost of goods sold in pools A, B, and C. R computes its final inventory for Year 2 as follows:

Year 2

Additional section 263A costs, $400 divided by Section 471 costs, $2,000 equals 20% absorption ratio

	Total	A	B	C
Year 2				
Beginning section 471 balance	$3,000	$1,600	$600	$800
Current section 471 costs	2,000	1,500	300	200
Section 471 cost of goods sold	(1,000)	(300)	(300)	(400)
Ending section 471 balance	4,000	2,800	600	600
Prior period additional section 263A costs	300	160	60	80
Included in cost of goods sold	(20)			(20)
Remaining prior period additional section 263A costs	280	160	60	60
Current additional section 263A costs	240	240		
Final ending inventory balance	4,520	3,200	660	660

Pool C is reduced by $200 in Year 2. A portion of the additional 263A costs contained in that pool that are attributable to Year 1 must be included in cost of goods sold in Year 2. The amount is determined by dividing the decrement in pool C by the total costs accumulated in the Year 1 layer of pool C; the resulting fraction is then multiplied by the additional section 263A costs contained in pool C which are attributable to Year 1. Thus, the amount of additional section 263A costs which is included in cost of goods sold from pool C, attributable to Year 1, is $20, i.e., $200 divided by $800, multiplied by $80.

(vi) *Change in method of accounting.* The election to use the simplified production method shall be made separately for each trade or business of the taxpayer on a timely filed income tax return for the taxpayer's first taxable year for which this section becomes effective. For taxable years subsequent to such taxable year of the taxpayer, a change in method to, or

from, the simplified production method requires the consent of the Commissioner. In addition, any change in the determination of the taxpayer's section 471 costs which would constitute a change in method of accounting under the law in effect before the enactment of section 263A, shall be deemed to constitute a change in method of accounting under this section.

(6) *Simplified procedure for allocating mixed service costs*—(i) *In general.* This paragraph provides a simplified method (the "simplified service cost method") for allocating administrative, support and service costs that directly benefit or are incurred by reason of the performance of production activities but also benefit other activities of the taxpayer ("mixed service costs"). The simplified service cost method provided under this paragraph (b)(6) may be used to determine the aggregate portion of mixed service costs which are required to be capitalized as production costs ("inventoriable mixed service costs"). For purposes of this method, mixed service costs do not include administrative, support, and service costs that directly benefit or are incurred by reason of the performance of the production activities of the taxpayer ("production service costs"), if such costs do not benefit other activities in the taxpayer's trade or business, or if such costs are properly allocated to production activities under the taxpayer's method of accounting prior to the effective date of the Tax Reform Act of 1986. In addition, mixed service costs do not include costs ("policy service costs") that do not benefit the production activities of the taxpayer, but rather, benefit only the types of non-production activities described in paragraph (b)(4)(vii) of this section (*e.g.*, overall management or policy guidance functions). See paragraph (b)(4) of this section for explanations and illustrations of the types of mixed service costs that are required to be allocated among the production activities of the taxpayer.

(ii) *Availability.* The simplified service cost method of this paragraph (b)(6) may be used to determine the inventoriable mixed service costs with respect to the production of real or personal property that is:

(A) Stock in trade of the taxpayer or other property that is properly includable in the inventory of the taxpayer, or

(B) Property held by a taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business.

The simplified service cost method is not available with respect to property acquired for resale (except as provided in paragraph (b)(5)(i) of this section, relating to a single trade or business engaged in both production and resale activities). Moreover, the simplified service cost method is not available with respect to property constructed by a taxpayer for use in its trade or business, property produced under a long-term contract, or any other property produced by a taxpayer that is not described in section 1221(1) of the Internal Revenue Code. The inventoriable mixed service costs determined under the simplified service cost method shall generally be allocated to specific properties produced by the taxpayer in accordance with the rules relating to the allocation of indirect costs under paragraph (b)(3)(iii) of this section. If the taxpayer elects to use the simplified production method under paragraph (b)(5) of this section, then the inventoriable mixed service costs shall be allocated under that method.

(iii) *Determination of inventoriable portion.* (A) The inventoriable mixed service costs required to be capitalized with respect to the taxpayer's production activities shall be determined by multiplying the total mixed service costs incurred in the taxpayer's trade or business during the taxable year by the ratio of—

(*1*) The total production costs incurred in the taxpayer's trade or business under this section (excluding mixed service costs and interest) for the taxable year, to—

(*2*) The total of all costs incurred in the operation of the taxpayer's trade or business (excluding mixed service costs and interest) for the taxable year.

(B) For example, assume that Taxpayer A incurs $1,000 of mixed service costs in the taxable year. The total of A's production costs incurred for the taxable year, excluding mixed service costs and interest, is $10,000. The total costs incurred for all of A's operations (exclusive of mixed service costs and interest) for the taxable year is $20,000. The total inventoriable mixed service costs allocable to A's production activities is $500 for the taxable year *i.e.*, ($1,000 × ($10,000 divided by $20,000)).

(C) For purposes of this method, the cost of operations consists of all direct and indirect costs of production, and all other costs of the taxpayer's operations, including but not limited to salaries and other labor costs of all personnel, all depreciation taken for federal income tax purposes, research and experimental costs, and selling, marketing and distribution costs. Such costs of operations shall not include, however, federal, state, local or foreign income taxes (or taxes measured by income such as franchise taxes assessed on income).

(D) If (*1*) the taxpayer's mixed service costs, or (*2*) the total costs incurred in the taxpayer's operations, are allocable to more than one trade or business, then the taxpayer shall determine the amount allocable to a particular trade or business by using any reasonable method of allocation (consistently applied) otherwise permitted under this section.

(E) In determining the total mixed service costs incurred in a taxpayer's trade or business during the taxable year for purposes of the formula described in paragraph (b)(6)(iii)(A) of this section (the "allocation formula"), the taxpayer shall utilize the total costs of the various departments or functions in the taxpayer's trade or business that perform mixed service activities (*e.g.*, the departments or functions described in paragraph (b)(4)(x) of this section). The total costs of such departments or functions shall then be included for purposes of the allocation formula in determining the inventoriable mixed service costs that are required to be capitalized as production costs. For purposes of the simplified service cost method, it shall not be permissible to exclude policy service costs (or other non-production costs) which are otherwise included in the total costs of departments or functions performing mixed service activities, and then include only the remainder of the costs of such departments or functions for purposes of the allocation formula. For example, assume that the accounting department of the taxpayer performs mixed service activities pertaining to production and non-production activities. For purposes of the simplified service cost method, the costs of personnel in the accounting department that perform services relating to non-production activities (*e.g.*, accounts receivable clerks which only account for the selling activities of the taxpayer) are not permitted to be excluded from the mixed service costs incurred by the accounting department which are subject to the allocation formula. Instead, under the simplified service cost method, the entire cost of the accounting department shall be included for purposes of applying the allocation formula. Similarly, the labor costs of administrative and managerial personnel that are incurred with respect to both production and non-production activities shall be accounted for in the

same manner, *i.e.*, the total costs of such personnel shall be included for purposes of applying the allocation formula, without first reducing such costs by the amounts therein pertaining to non-production activities.

(iv) *De minimis rule.* For purposes of the simplified service cost method of this paragraph (b)(6), the determination of whether service costs are to be treated as costs solely allocable to production ("production service costs") or as costs solely allocable to other non-production functions of the taxpayer such as functions relating to overall management and policy ("policy service costs"), is to be based on the predominant nature of such service costs. For purposes of this paragraph (b)(6)(iv), the predominant nature of a service cost shall be treated as solely allocable to a particular activity if 90 percent or more of that cost directly benefits or is incurred by reason of such activity. In such a case, the total of such costs shall be treated as allocable to such activity. For example, assume that 90 percent of the costs of a particular department directly benefit or are incurred by reason of the taxpayer's inventory production activities. For purposes of the simplified service cost method of this paragraph (b)(6), the taxpayer shall treat 100 percent of the costs of the department as if such costs are production service costs. Similarly, assume that 90 percent of the costs of a particular department directly benefit or are incurred by reason of the taxpayer's overall policy making activities. For purposes of the simplified mixed service cost method of this paragraph (b)(6), the taxpayer shall treat 100 percent of the costs of that department as policy service costs that are not required to be allocated to production.

(v) *Change in method of accounting.* The election to use the simplified service cost method shall be made separately for each trade or business of the taxpayer on a timely filed income tax return for the taxpayer's first taxable year for which this section becomes effective. For taxable years subsequent to such taxable year of the taxpayer, a change in method to, or from, the simplified service cost method requires the consent of the Commissioner.

(c) *Special rules for property produced in a farming business*—(1) *General rule.* In general, this section applies to property produced in a farming business if such property has a preproductive period of more than 2 years, or if such farming business is described in paragraph (c)(2) of this section. This section does not apply, however, if the property is described in paragraph (c)(3) of this section or if the taxpayer has made the election described in paragraph (c)(6) of this section. In addition, this section does not apply to animals produced in a farming business if such animals are held primarily for slaughter (regardless of the preproductive period of such animals), except that this section shall apply to the production of such animals by a farming business if such business is described in paragraph (c)(2) of this section. For purposes of this section, an animal is held primarily for slaughter regardless of whether the taxpayer itself will slaughter the animal or instead will sell the animal to others for slaughter.

(2) *Taxpayers required to use the accrual method.*

(i) This section applies to property produced in a farming business (including all animals held primarily for slaughter) without regard to the preproductive period of such property in the case of a:

(A) Corporation or partnership required to use an accrual method of accounting under section 447 in computing its taxable income from farming, or

(B) Tax shelter required to use an accrual method of accounting under section 448(a)(3).

Thus, for example, this section applies to an enterprise involving the feeding of cattle held for slaughter regardless of the preproductive period of such cattle, if the enterprise is required to use an accrual method of accounting under section 447 or section 448(a)(3).

(ii) For purposes of this section, a farming business shall be considered a tax shelter, and thus required to use an accrual method of accounting under section 448(a)(3), if that farming business is:

(A) A farming syndicate as defined in section 464(c); or

(B) A tax shelter within the meaning of section 6661(b)(2)(C)(ii), defined as—

(*1*) A partnership or other entity,

(*2*) Any investment plan or arrangement, or

(*3*) Any other plan or arrangement, if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax.

(iii) For purposes of this section, marketed arrangements in which persons carry on farming activities utilizing the services of a common managerial or administrative service will be presumed to have the principal purpose of tax avoidance if such persons prepay a substantial portion of their farming expenses with borrowed funds.

(3) *Exception*—(i) *In general.* This section does not apply to costs incurred on or after October 22, 1986, that are attributable to the replanting, cultivation, maintenance, and development of any plants bearing an edible crop for human consumption (including, but not limited to, plants which constitute a grove, orchard, or vineyard) that were lost or damaged while in the hands of the taxpayer by reason of freezing temperatures, disease, drought, pests, or casualty. Such replanting or maintenance costs may be incurred with respect to property other than the property on which the damage or loss occurred if the acreage of the property with respect to which the replanting or maintenance costs are incurred is not in excess of the acreage of the property on which the damage or loss occurred. Plants bearing crops for human consumption are those crops that are normally eaten or drunk by humans. Thus, for example, costs incurred with respect to replanting plants bearing jojoba beans do not qualify for the exception provided in this paragraph (c)(3)(i) because that crop is not normally eaten or drunk by humans.

(ii) *Ownership; in general.* Replanting, cultivation, maintenance, and development costs described in paragraph (c)(3)(i) of this section generally must be incurred by the taxpayer owning the property at the time the plants were lost or damaged. Paragraph (c)(3)(i) of this section will apply, however, to costs incurred by a person other than the taxpayer owning the plants at the time of damage or loss if—

(A) The taxpayer who owned the plants at the time the damage or loss occurred owns an equity interest of more than 50 percent in such plants or crops, and

(B) Such other person owns any portion of the remaining equity interest and materially participates in the replanting, cultivating, maintenance or development of such plants or crops.

A person will be treated as materially participating for purposes of this provision if such person would otherwise meet the requirements with respect to material participation within the meaning of section 2032A of the Code.

(4) *Definitions*—(i) *Farming business.* (A) For purposes of this section, a farming business means a trade or business involving the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity. Examples include the trade or business

of operating a nursery or sod farm; the raising or harvesting of crops; the raising or harvesting of trees bearing fruit, nuts or other crops; the raising of ornamental trees; and the raising, shearing, feeding, caring for, training, and management of animals.

(B) For purposes of this section, an evergreen tree that is more than 6 years old at the time it is severed from its roots is not treated as an ornamental tree regardless of the purpose for which it is sold.

(C) For purposes of this section, the term "farming business" does not include the processing of commodities or products beyond those activities which are normally incident to the growing, raising or harvesting of such products. Thus, for example, assume the taxpayer, a C corporation, is in the business of growing and harvesting wheat and other grains. The taxpayer processes grains which it has harvested in order to produce breads, cereals, and other similar food products which it then sells to customers in the course of its business. Although the taxpayer is in the farming business with respect to the growing and harvesting of grain, the taxpayer is not in the farming business with respect to the processing of such grains to produce food products which it sells to customers. Similarly, assume the taxpayer is in the business of raising poultry or other livestock. The taxpayer then uses such livestock in a meat processing operation in which the livestock are slaughtered, processed, and packaged or canned in preparation for their sale to customers. Although the taxpayer is in the farming business with respect to the raising of livestock, the taxpayer is not in the farming business with respect to the meat processing operation.

(ii) *Preproductive period.* (A) For purposes of this section, the preproductive period of property produced in a farming business means—

(*1*) In the case of a plant or animal which will have more than one crop or yield, the period before the first marketable crop or yield from such plant or animal, or

(*2*) In the case of any other plant or animal, the period before such plant or animal is reasonably expected to be disposed of.

(B) The preproductive period of a plant begins when the plant or seed is first planted or acquired by the taxpayer. The preproductive period ends when the plant becomes productive in marketable quantities or when the plant is reasonably expected to be sold or otherwise disposed of.

(C) The preproductive period of an animal begins at the time of acquisition, breeding, or embryo implantation. The preproductive period ends at the time the animal is ready to perform the primary function intended to be performed by that animal (*e.g.*, when the animal becomes productive in marketable quantities), or when the animal is reasonably expected to be sold or otherwise disposed of. For example, in the case of a cow used for breeding purposes, the preproductive period with respect to the cow ends on the date the first calf is dropped.

(D) The preproductive period of plants grown in commercial quantities in the United States shall be based on the weighted average preproductive period for such plant, determined on a nationwide basis.

(5) *Inventory methods*—(i) *In general.* Except as otherwise provided, the costs required to be allocated to any plant or animal under this section may be determined using reasonable inventory valuation methods such as the farm-price method or the unit-livestock-price method. See section 1.471–6.

(ii) *Availability to tax shelters.* Tax shelters, as defined in paragraph (c)(2)(i)(B) of this section, using the unit-livestock-price method of accounting for inventories must include in inventory the annual standard unit price for all animals which are acquired during the taxable year, regardless of whether such purchases are made during the last 6 months of the taxable year.

(6) *Election not to have this section apply.*—(i) *Introduction.* This paragraph (c)(6) permits certain taxpayers to make an election not to have the rules of this section apply to any plant or animal produced in a farming business conducted by the electing taxpayer.

(ii) *Availability of the election.* The election described in this section is available to any farmer except that no election may be made by a corporation, partnership or tax shelter required to use an accrual method of accounting under section 447 or 448(a)(3). Moreover, no election may be made with respect to the planting, cultivation, maintenance or development of pistachio trees. In addition, the election described in this section does not apply to any costs incurred for the planting, cultivation, maintenance or development of any citrus or almond grove (or any part thereof) to the extent that such costs are incurred within the first four years in which such trees were planted. If a citrus or almond grove is planted in more than one taxable year, the portion of the grove planted in any one taxable year is treated as a separate grove for purposes of determining the year of planting.

(iii) *Time and manner of making the election.* Unless consent is obtained from the Commissioner, the election described in this section may only be made for the taxpayer's first taxable year that begins after December 31, 1986, and during which the taxpayer engages in a farming business. The election shall be made on the schedule E, F, or other schedule required to be attached to the income tax return for the first taxable year for which the election is effective. In the case of a partnership or S corporation, the election must be made by the partner or shareholder.

(iv) *Election treated as if made if certain requirements satisfied.* A taxpayer eligible to make the election under paragraph (c)(6) of this section shall be treated as having made the election if such taxpayer does not capitalize the costs of producing property in a farming business as the provisions of this section would otherwise require.

(v) *Revocation.* Once the election is made, it is revocable only with the consent of the Commissioner.

(vi) *Special rules for treatment of expenses.* (A) If the election is made, the plant or animal produced by the taxpayer is treated as section 1245 property and any gain resulting from any disposition of such property is recaptured (*i.e.*, treated as ordinary income) to the extent of the total amount of the deductions which, but for the election, would have been required to be capitalized with respect to the plant or animal. In calculating the amount of gain which is recaptured under this paragraph (c)(6)(vi), the taxpayer may use the farm-price or unit-livestock methods in determining the deductions which otherwise would have been capitalized with respect to the plant or animal.

(B) If the taxpayer or a related person makes the election, the alternative depreciation system (as defined in section 168(g)(2)), shall be applied to all property used predominantly in any farming business of the taxpayer or related person and placed in service in any taxable year during which the election is in effect. The requirement to use the alternative depreciation system by reason of any election under paragraph (c)(6) of this section shall not prevent any taxpayer from making an election under section 179 to expense certain depreciable business assets.

(C) For purposes of this paragraph (c)(6), the term "related party" means—

(*1*) The taxpayer and members of the taxpayer's family (defined, for this purpose, to include the spouse of the taxpayer and any of his or her children

who have not reached the age of 18 as of the last day of the taxable year in question),

(2) Any corporation (including an S corporation) if 50 percent or more of the stock (in value) is owned directly or indirectly (through the application of section 318) by the taxpayer or members of the taxpayer's family,

(3) A corporation and any other corporation which is a member of the same controlled group (within the meaning of section 1563(a)(1)), and,

(4) Any partnership if 50 percent or more (in value) of the interests in such partnership is owned directly or indirectly (through the application of section 318) by the taxpayer or members of the taxpayer's family.

(vii) The operation of the election not to have this section apply is illustrated in the following examples:

Example (1) Assume that A, an individual, is engaged in the trade or business of farming. A raises cattle for breeding and dairy purposes. In addition, A grows and harvests wheat and other grains. Assume further, that the preproductive period of certain of the cattle raised by A is more than two years, as defined in paragraph (c)(4)(ii) of this section, and that A elects under paragraph (c)(6) of this section not to have the rules of this section apply to the costs of raising such cattle. A is required to use the alternative depreciation system described in section 168(g) of the Code with respect to all property used predominantly in any farming business of A (including the growing and harvesting of wheat) if such property is placed in service during a year for which the election is in effect. Thus, for example, all assets and equipment (including any dairy cattle which A treats as depreciable property, and any equipment used to grow and harvest wheat) placed in service during a year for which the election is in effect must be depreciated using the straight line method over the applicable number of years, as provided in section 168(g).

Example (2) Assume the same facts as in example 1, except that A and members of A's family (as defined in paragraph (c)(6)(vi)(C)) also own 51% (in value) of the interests in a partnership P, which is engaged in the trade or business of growing and harvesting corn. P is a related person to A under the provisions of paragraph (c)(6)(i)(F) of this section. Thus, the requirements to use the alternative depreciation system under section 168(g) also apply to any property used predominantly in a trade or business of farming which P places in service during a year for which the election made by A is in effect.

(d) *Definitions and special rules relating to property acquired for resale*—(1) *General rule*—(i) Unless an election is made to use the simplified resale method provided in paragraph (d)(3) of this section, the rules of this section applicable to the production of property shall apply to costs incurred with respect to property acquired for resale in a trade or business or activity conducted for profit. For purposes of this section, property acquired for resale includes stock in trade of the taxpayer or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business. Property acquired for resale may be real property or personal property (whether such personal property is of a tangible or intangible nature). Thus, property held for sale may include—

(A) Literary, musical or artistic compositions; stocks, certificates, notes, bonds, debentures, or other evidence of indebtedness;

(B) An interest in, or right to subscribe to or purchase any of the foregoing; and

(C) Other intangible properties.

Thus, for example, a dealer in securities must properly capitalize costs, as required by this section, with respect to the securities acquired by the dealer for resale.

(ii) Any taxpayer that does not elect to use the simplified resale method with respect to property acquired for resale, shall capitalize the costs which are required to be capitalized in paragraph (d)(3)(ii) of this section with respect to such method, using the definitions of such costs as are provided therein. Thus, for example, taxpayers not electing to use the simplified resale method shall be required to capitalize offsite storage costs, as defined under the simplified resale method; moreover, the definition of distribution costs as provided under the simplified resale method shall apply to such taxpayers as well.

(iii) Taxpayers not electing the use of the simplified resale method may not utilize the various allocation methods or expedited procedures provided under such method, but rather must use such methods and procedures as are allowed with respect to the production of property under this section. Thus, for example, in determining the total amount of general and administrative expenses allocable to offsite storage, purchasing, and handling costs, such taxpayers shall not use the fraction for allocating such expenses which is based on labor costs incurred in the various activities, unless such method would be otherwise allowed to producers of property. Similarly, in determining the costs which are attributable to purchasing activities, such taxpayers shall not use the procedure provided in the simplified resale method whereunder certain activities may be disregarded if they comprise less than one-third of the aggregate activities being performed.

(2) *Exception for taxpayers with gross receipts of $10 million or less*—(i) *In general.* This section does not apply in the case of personal property acquired for resale by a taxpayer whose average annual gross receipts (determined under this paragraph (d)(2)) for the 3 taxable years preceding the taxable year (or, if less, the number of preceding taxable years the taxpayer and any predecessor has been in existence) do not exceed $10 million. This section does apply, however, in the case of real property acquired for resale by a taxpayer, regardless of the taxpayer's gross receipts.

(ii) *Aggregation of gross receipts.* For purposes of determining the gross receipts of the taxpayer, all persons treated as a single employer under section 52 (a) or (b), or section 414 (m) or (o) shall be treated as one person. Thus, gross receipts attributable to transactions between such persons treated as a single employer shall not be taken into account for purposes of this provision.

(iii) *Treatment of short taxable year.* In the case of any taxable year of less than 12 months (a short taxable year), the gross receipts shall be annualized by (A) multiplying the gross receipts for the short taxable year by 12, and (B) dividing the result by the number of months in the short taxable year.

(iv) *Determination of gross receipts*—(A) *In general.* The term "gross receipts" means the total amount, as determined under the taxpayer's method of accounting, received from all trades or businesses carried on by the taxpayer (e.g., revenue derived from the sale of inventory before reduction for cost of goods sold).

(B) *Amounts excluded.* For purposes of this paragraph (d)(2), gross receipts shall not include amounts representing—

(1) Returns or allowances,

(2) Interest, dividends, rents, royalties, or annuities, not derived in the ordinary course of a trade or business,

(3) Receipts from the sale or exchange of capital assets, as defined in section 1221, and

(4) Receipts from sales or exchanges not in the ordinary course of business, such as the sale of a trade or business, or the sale of property used in a trade or business as defined under section 1221(2).

(3) *Simplified method of accounting for resale costs*—(i) *In general.* Except as otherwise provided, taxpayers may elect to use the simplified method of this paragraph (d)(3) (the "simplified resale

method") for allocating costs to property acquired for resale. The simplified resale method must be applied separately to each trade or business of the taxpayer. (See paragraph (b)(5) of this section which provides that only the simplified production method and not the simplified resale method shall be available in the case of a single trade or business that consists of both production and resale activities.) Under the simplified resale method, preliminary inventory balances are to be calculated without the inclusion of the additional costs required to be allocated in paragraph (d)(3)(ii) of this section. The amount of additional costs attributable to prior periods and the amount of additional costs determined to be allocable under paragraph (d)(3)(ii) of this section for the current period are then taken into account with the inventory balances as initially calculated in order to arrive at an ending inventory balance.

(ii) *Costs required to be capitalized.* The following categories of costs are required to be capitalized with respect to property acquired for resale, regardless of whether a taxpayer elects the simplified resale method. This paragraph (d)(3)(ii) provides illustrative examples of particular items of cost which are required to be capitalized under this section. For example, costs of handling generally consist of direct and indirect labor costs, tools, vehicles, and other enumerated items. These examples are not exhaustive in nature; to the extent that other particular items of costs incurred by the taxpayer benefit or are incurred by reason of the particular activity in question, such costs shall be capitalized accordingly.

(A) *Off-site storage or warehousing—* (*1*) *Definition.* Costs attributable to the operation of off-site storage or warehousing facilities ("off-site storage facilities") under this section are required to be capitalized with respect to inventory. For purposes of this section, an off-site storage facility is defined as any storage or warehousing facility which is not an on-site storage facility. An on-site storage facility is a facility which is physically attached to, and an integral part of, a retail sales facility where the taxpayer sells merchandise stored at the facility to customers physically present at the facility ("on-site sales"). Thus, for example, a catalog or mail order center which stores merchandise for shipment to customers who purchase such merchandise through orders placed over the telephone, or orders delivered in the mail, is not an on-site storage facility, and thus is treated as an off-site storage facility. Similarly, a "pooled stock facility" which functions as a "back-up" regional storage facility for particular retail sales outlets in the nearby area is not an on-site storage facility, and is thus treated as an off-site storage facility. Moreover, a storage or warehousing area operated by a person mailing sales of goods "wholesale" to persons who in turn resell the goods to others, is not an on-site storage facility because such facility is not an integral part of a retail sales facility.

(*2*) *Dual-function facilities.* Except as provided in paragraph (d)(3)(ii)(A)(*3*) of this section, if a storage facility serves as both an on-site and off-site storage facility, a percentage of the facility shall be treated as an on-site storage facility equal to the ratio of—

(*i*) Gross on-site sales of the facility, i.e., gross sales of the facility made to retail customers visiting the premises in person and purchasing merchandise stored therein, to—

(*ii*) Total gross sales of the facility. The portion of the facility which is not treated as an on-site facility under the preceding sentence shall be treated as an off-site facility. For example, assume a catalog center conducts on-site sales which are equal to 40 percent of the total sales made by the facility. For purposes of this section, 40 percent of the facility shall be viewed as an on-site storage facility; the remaining 60 percent shall be viewed as an off-site storage facility.

(*3*) *De minimis rule for dual function facilities.* If 10 percent or less of the gross sales of a facility are attributable to on-site sales, then the entire storage facility located at the site shall be deemed to be an off-site storage facility for purposes of this section. If, in contrast, 90 percent or more of the gross sales of a facility are attributable to on-site sales, then the entire storage facility located at the site shall be deemed to be an on-site storage facility.

(*4*) *Allocation of costs; off-site facilities.* To the extent that costs are incurred at an off-site storage facility which do not directly benefit, or are not incurred by reason of, the storage functions of such facility, then such costs shall not be accounted for as costs of an off-site facility. Thus, for example, assume that a catalog store incurs costs (e.g., labor cost of clerical personnel) attributable to receiving and processing customer orders which will be filled by directly shipping the merchandise to the customer's address. Costs attributable to these functions will be treated as costs allocable to the selling function of the taxpayer's business, and thus not treated as off-site storage costs.

(*5*) *Costs attributable to off-site facilities.* Cost attributable to an off-site storage facility generally consist of direct and indirect labor costs (including the costs of pension plans and other "fringe benefits" as described in paragraphs (b)(2) (ii) and (iii) of this section); occupancy expenses including rent, depreciation, insurance, security, taxes, utilities and maintenance; materials and supplies; tools and equipment; and, general and administrative costs that directly benefit or are incurred by reason of the off-site storage activities of the taxpayer.

(B) *Purchasing.* (*1*) Costs attributable to purchasing activities under this section are required to be capitalized with respect to inventory. Purchasing activities include functions associated with a purchasing department or office, and personnel such as buyers, assistant buyers, and clerical workers, whose function relates to the activities of the selection of merchandise, maintenance of stock assortment and volume, placement of purchase orders, establishment and maintenance of vendor contacts, or comparison and testing of merchandise.

(*2*) The determination of whether a person is engaged in purchasing activities shall be based upon the actual activities performed by such person and not upon that person's title or job classification. Thus, for example, although a particular employee may be described as a "buyer" in the employer's job classification system, activities performed by such person shall not be considered as purchasing activities unless such treatment is appropriate based on an analysis of the actual responsibilities of the employee.

(*3*) Similarly, although a person's job function may be described in such a way as to denote activities outside the area of purchasing (e.g., a "marketing representative"), such activities shall be accounted for under this section as purchasing activities if such treatment is appropriate based upon an analysis of the actual responsibilities of the employee.

(*4*) *In general.* (*i*) If a person performs more than one function, a reasonable allocation of the labor costs attributable to such person shall be made between the purchasing and non-purchasing functions of such person.

(*ii*) For purposes of this paragraph (d)(3)(ii)(B)(*4*), the following formula may be applied by a taxpayer with respect to all personnel directly performing purchasing functions in a trade or business in allocating the labor costs of such personnel to the functions of the taxpayer. (This formula may not

be used with respect to personnel providing general and administrative services which benefit or are incurred by reason of purchasing functions).

(*A*) If less than one-third of a person's activities relate to a purchasing function, none of the labor costs attributable to that person shall be allocated to a purchasing function.

(*B*) If more than two-thirds of a person's activities relate to a purchasing function, all of the labor costs attributable to that person shall be allocated to a purchasing function.

(*C*) In all other cases, an allocation of costs between functions must be made.

(*iii*) For example, assume that A, B, and C are employed by taxpayer M in a retail business. Employee A performs activities, 25 percent of which are direct purchasing functions. Employee B performs activities, 70 percent of which are direct purchasing functions. Employee C performs activities, 50 percent of which are direct purchasing functions. As a result of the application of the formula provided in this paragraph, M will treat none of the labor costs of employee A as allocable to purchasing costs; all of the labor costs of employee B as allocable to purchasing costs; and 50 percent of the labor costs of employee C as allocable to purchasing costs and 50 percent as allocable to nonpurchasing labor costs.

(*5*) Costs attributable to purchasing activities generally consist of direct and indirect labor costs (including the costs of pension plans and other "fringe benefits" as described in paragraphs (b)(2) (ii) and (iii) of this section), office machines, supplies, telephone, travel, and the general and administrative costs that directly benefit or are incurred by reason of the purchasing activities of the taxpayer.

(C) *Handling, processing, assembly, and repackaging—*(*1*) *Definition.* Costs attributable to handling, processing, assembly, repackaging and other similar activities ("handling costs") under this section are required to be allocated to inventory. Handling costs include, for example, all costs incurred in transporting goods (including loading and unloading costs):

(*i*) From the place of purchase to the taxpayer's storage facility (to the extent not already capitalized by the taxpayer),

(*ii*) From storage facility to storage facility, and

(*iii*) From a storage facility to a store or outlet where the sale of the delivered item occurs. Similarly, handling costs include the costs of processing, assembling, and repackaging goods. To the extent that such processing activities would be required, under the law prior to the effective date of the Tax Reform Act of 1986, to be accounted for as the costs of manufactured inventory under section 1.471–11, then the taxpayer shall account for such costs under the rules applicable to production of property rather than the rules of this paragraph (d)(3). (Also, see paragraph (b)(5) of this section for rules relating to the simplified method available for a single trade or business that consists of both production and resale activities).

(*2*) *Exception for repackaging costs after sale occurs.* For the purpose of this paragraph (d)(3), handling costs shall not include the costs of repackaging goods in preparation for imminent shipment or delivery directly to a particular customer, if such repackaging occurs after the customer has ordered the specific identifiable goods in question.

(*3*) *Exception for distribution costs.* For the purpose of this paragraph (d)(3), handling costs shall not include distribution costs. Distribution costs are defined as the costs of delivering goods directly to the customer, e.g., costs incurred in delivering an item from a storage facility to a customer's home. Except as provided in paragraph (d)(3)(ii)(C)(*4*) of this section, distribution costs do not include costs of transporting an item from a storage facility to a store or outlet where the sale of the item occurs.

(*4*) *Custom delivery of ordered items.* Costs incurred in delivering goods from a storage facility to a store where the sale of the goods occurs are presumed to be handling costs allocable to the property and not distribution costs incurred for delivery of goods directly to the customer. This presumption can be overcome only if the taxpayer can demonstrate that a delivery to the store or other selling location is made to fill an identifiable order of a particular customer (placed by such customer before the delivery of the goods occurs) for the particular goods in question. Factors that may demonstrate the existence of a specific, identifiable delivery include the following:

(*i*) The customer has paid for the item in advance of delivery;

(*ii*) The customer has submitted a written order for the item;

(*iii*) The item is not normally available at the retail store for on-site customer purchases; or

(*iv*) The item will be returned to the storage facility (and not held for sale at the store or selling location) if the customer cancels an order.

(*5*) *Costs attributable to handling.* The costs attributable to handling activities generally consist of direct and indirect labor (including the costs of pension plans and other fringe benefits as described in paragraphs (b)(2) (ii) and (iii) of this section); tools; vehicles and equipment; maintenance of vehicles and equipment; rent, depreciation, and insurance of vehicles and equipment; materials; supplies; and the general and administrative costs that directly benefit or are incurred by reason of such activities of the taxpayer.

(D) *General and administrative expenses.* A portion of direct and indirect costs incurred by any administrative, service or support functions or departments ("service departments"), that directly benefits or is incurred by reason of both off-site storage, purchasing, or handling activities, as defined in this section, and the taxpayer's other activities ("mixed service costs") is to be included in inventory costs under this paragraph (d)(3)(ii)(D). The determination of the aggregate portion of such mixed service costs required to be allocated to the off-site storage, purchasing, and handling activities described in this paragraph (d)(3) is to be made pursuant to the rules contained in paragraph (d)(4) of this section.

(*4*) *Allocation methods under the simplified resale method—*(i) *In general.* The costs that are incurred with respect to the categories described in paragraph (d)(3)(ii) of this section (i.e., activities pertaining to off-site storage, purchasing, handling, and mixed service costs) ("additional section 263A resale costs") are to be allocated to inventory in the manner provided in this paragraph (d)(4). In making all computations under this paragraph (d)(4), initial inventory balances shall be determined without regard to any additional section 263A resale costs allocated under this paragraph (d)(4).

(ii) *Offsite storage, purchasing and handling costs—In general.* The additional section 263A resale costs of the taxpayer for the taxable year are to be allocated to inventory based on the ratio of such costs to the taxpayer's purchases for the year (the "allocation ratio"). The taxpayer shall determine the additional section 263A resale costs to be capitalized in ending inventory by multiplying the allocation ratio times the amounts in the taxpayer's ending inventory which are treated as purchases made during the current year under the taxpayer's method of accounting. Taxpayers will initially calculate their inventory balances without regard to the additional costs required to be capitalized under paragraph (d)(3)(ii) of this section. Taxpayers will then determine the amounts of additional section 263A resale costs that must be capitalized

under this paragraph (d)(4)(ii) of this section, and take into account such amounts, along with amounts of additional costs contained in beginning inventory balances where appropriate, with the preliminary inventory balances to determine their final balances.

(iii) *Determination of mixed service costs*—(A) *In general.* The amount of mixed service costs which is to be included as additional section 263A costs for purposes of calculating the allocation ratio as provided in paragraph (d)(4)(ii) of this section is determine in the following manner. The amount of mixed service costs which is included in additional section 263A resale costs shall be determined by multiplying the total amount of mixed service costs incurred by the taxpayer in the trade or business for the taxable year, by the ratio of—

(*1*) The sum of the labor costs allocable to the off-site storage, purchasing, and handling activities, described in paragraph (d)(3)(ii) of this section, to—

(*2*) The total of all labor costs incurred in the taxpayer's trade or business, excluding the total amount of labor costs included in the mixed service costs incurred by the taxpayer in the trade or business for the taxable year.

To the extent that mixed service costs and labor costs are incurred in more than one trade or business, the taxpayer shall determine the amounts allocable to the particular trade or business in issue by using any reasonable method consistent with the principles of this section.

(B) *Example.* The determination of mixed service costs under this provision is illustrated by the following example.

Example. Taxpayer T incurs $1 million in mixed service costs in its trade or business for the taxable year. The labor costs allocable to T's purchasing, handling and off-site storage activities are $5 million. The labor costs of T's trade or business as a whole (including the labor costs allocable to purchasing, handling and off-site storage activities, but excluding the labor costs contained in the $1 million in mixed service costs) are $25 million. The mixed service costs that T must treat as additional section 263A resale costs are equal to $200,000 (*i.e.*, $5 million divided by $25 million, multiplied by $1 million). The $200,000 in mixed service costs are included in additional section 263A resale costs, and are allocated to ending inventory using the procedures described in paragraph (d)(4)(ii) of this section.

(C) In determining whether the costs of a department or function are mixed service costs under this paragraph (d)(4)(iii), the taxpayer shall apply the principles contained in paragraph (b)(6) of this section relating to the simplified mixed service cost method applicable to the production of inventory. Thus, for example, the taxpayer shall apply the de minimis rule described in paragraph (b)(6)(iv) of this section in determining whether service costs are solely allocable to resale activities, or whether service costs are solely allocable to non-resale activities. Moreover, the taxpayer shall apply the principles of paragraph (b)(6)(iii)(E) of this section in determining the total costs of departments or functions which are to be included as mixed service costs under this paragraph (d)(4)(iii). Thus, for example, in determining the total costs of departments or functions performing mixed service activities for purposes of this paragraph (d)(4)(iii), the taxpayer shall not exclude non-resale related costs which are otherwise included in the total costs of such departments performing mixed service activities. See the examples relating to the costs of an accounting department and the labor costs of administrative and managerial personnel which are contained in paragraph (b)(6)(iii)(E) of this section.

(iv) *Examples.* The application of the simplified resale method is illustrated in the following examples:

Example (1). Taxpayer A, using the first-in, first-out (FIFO) method of accounting for inventories, incurred $400,000 of storage costs, $500,000 of purchasing costs, $300,000 in handling and processing costs, and $200,000 of mixed service costs during the taxable year (a total of $1.4 million in additional section 263A resale costs). A's beginning inventory balance (excluding additional section 263A resale costs) was $2 million. A made $8 million in gross purchases during the taxable year, and A's ending inventory (excluding additional section 263A resale costs) was $3 million. The amounts in ending inventory which are viewed as consisting of purchases made during the year, under the FIFO method, are $3 million. The ratio of additional section 263A resale costs to purchases made during the taxable year (the allocation ratio) is 17.5 percent *i.e.*, $1.4 million divided by $8 million. The additional section 263A resale costs required to be capitalized in ending inventory are equal to $525,000, i.e., the product of the allocation ratio (17.5 percent) multiplied by the amount of purchases for the year which are viewed as being held in ending inventory ($3,000,000).

Example (2). Taxpayer B uses the last-in, first-out method (LIFO) of accounting for inventories. Assume the same facts as Example (1). The amounts in ending inventory which are viewed as consisting of purchases made during the taxable year, under the LIFO method, are $1 million. The ratio of additional section 263A resale costs to purchases made during the taxable year is 17.5 percent. The additional section 263A resale costs required to be capitalized in ending inventory are equal to $175,000, i.e., the product of the allocation ratio (17.5 percent) multiplied by the amount of purchases for the year which are viewed as being held in ending inventory ($1,000,000).

Example (3). Taxpayer X begins its trade or business in Year 1, and uses the LIFO method of accounting for inventories. X had no beginning inventory balance for the year (due to entering the trade or business in Year 1). X incurred a total of $1,000 in additional section 263A resale costs in Year 1, and maue $10,000 in gross purchases. The amounts in ending inventory which are viewed as consisting of purchases made during the taxable year, under the LIFO method, are $3,000. Such ending inventory amounts are contained in pools A, B, and C. X allocates its additional section 263A resale costs for Year 1 as follows:

Year 1

Additional section 263A resale costs, $1,000 divided by Purchases, $10,000 equals 10% allocation ratio

	Total	A	B	C
Year 1				
Ending balance	$3,000	$1,600	$600	$800
Allocation ratio	.10	.10	.10	.10
Current additional section 263A costs	300	160	60	80
Final ending inventory bala..e..	3,300	1,760	660	880

In Year 2, X incurs $400 of additional section 263A costs. Purchases for Year 2 are $2,000, distributed among pools A, B, and C. Cost of sales for Year 2 are $1,000. X computes its final inventory for Year 2 as follows:

Year 2

Additional section 263A costs, $400 divided by Purchases, $2,000 equals 20% allocation ration

	Total	A	B	C
Year 2				
Beginning balance	$3,000	$1,600	$600	$800
Current purchases	2,000	1,500	300	200
Costs of sales	91,000	(300)	(300	(400)
Ending balance	4,000	2,800	600	600
Prior penod additional section 263A costs	300	160	60	80
Included in costs of sales	(20)			(20)
Remaining additional section 263A costs	280	160	60	60
Current additional section 263A costs	240	240		
Final ending inventory balance..	4,520	3,200	660	660

Pool C is reduced by $200 in Year 2. A portion of the additional 263A resale costs contained in pool C which is attributable to Year 1 must be included in cost of goods sold in Year 2. The amount is determined by dividing the decrement in pool C by the total costs accumulated in the Year 1 layer of pool C; the resulting fraction is then multiplied by the additional section 263A costs contained in pool C that are attributable to Year 1. Thus, the amount of additional section 263A costs that is included in cost of goods sold from pool C, attributable to Year 1, is $20, *i.e.*, $200 divided by $800, multiplied by $80.

(v) *LIFO indexes.* Under the simplified resale method, a taxpayer using the LIFO method of accounting for inventories must calculate each particular year's index without regard to the additional section 263A resale costs required to be allocated under this section. Similarly, the taxpayer shall disregard the additional section 263A resale costs in adjusting current year costs by the appropriate indexes, in determining whether there has been an inventory increment or decrement for the current year in question for the particular pool. If the taxpayer determines that there has been an inventory increment, then the taxpayer shall state the amount of the increment in current year dollars, and then multiply the resulting amount by the allocation ration, as previously described. The resulting product is equal to the amount of the additional section 263A resale costs which the taxpayer is required to capitalize in ending inventory. If the taxpayer determines that there has been an inventory decrement, then the taxpayer shall state the amount of the decrement in dollars applicable to the particular year for which the LIFO cost or layer has been invaded. The additional section 263A resale costs incurred in prior years which are applicable to the decrement shall be charged to cost of goods sold. The additional section 263A resale costs which are applicable to the decrement are determined by multiplying the total amount of such section 263A resale costs allocated to the layer of the particular pool in which the decrement occurred, by the ratio of the decrement to the total costs (excluding section 263A resale costs) in the layer for such pool.

(5) *Section 481 (a) adjustment.* Taxpayers using the simplified resale method to allocate costs must apply the simplified method in revaluing their inventories for purposes of the change in method of accounting required under this section. See paragraph (e) of this section for rules relating to the methods permitted for inventory revaluations and the calculation of the adjustment under section 481(a).

(6) *Election.* The election to use the simplified resale method shall be made separately for each trade or business of the taxpayer on a timely filed income tax return for the taxpayer's first taxable year for which this section becomes effective beginning after December 31, 1986. For taxable years subsequent to such taxable year of the taxpayer, and election to use the simplified resale method requires the consent of the Commissioner. In addition, taxpayers are required to obtain the consent of the Commissioner to change from the simplified resale method to the general method of this section.

(e) *Inventories.* (1) *In general.* Under this section, taxpayers are required to change their method of accounting with respect to inventory property, effective for taxable years beginning after December 31, 1986. The required change in method of accounting applies to inventory produced by the taxpayer, as well as to inventory acquired by the taxpayer for resale. The change in method of accounting is to be made by revaluing the items or costs included in beginning inventory in the year of change as if the new capitalization rules of section 263A and this section has been in effect during all prior periods. In revaluing inventory costs under this procedure, all of the capitalization provisions of this section (*e.g.*, the requirement to capitalize the entire amount of tax depreciation and cost recovery allowances with respect to equipment and facilities), shall apply to all inventory costs accumulated in prior periods. The necessity to revalue beginning inventory as if the new capitalization rules had been in effect for all prior periods includes, for example, the revaluation of costs or layers incurred in taxable years preceding the transition period to the full absorption method of inventory costing as described in § 1.471–11(e), regardless of whether a taxpayer employed a "cut-off" method under those regulations. The difference between the inventory as originally valued and the inventory as revalued by applying the new capitalization rules is equal to the amount of the ajustment required under section 481(a). For example, with respect to inventories of films, sound recordings, video tapes, books, and other similar property, the taxpayer shall revalue the costs of such items (including, for example, the costs of a copyright and manuscript of a book) under the principles of this paragraph (e)(1).

(2) *Section 481(a) adjustment.* In the case of any taxpayer required by this section to change its method of accounting for any taxable year, such change shall be treated as initiated by the taxpayer. (In addition, such change shall be treated as made with the consent of the Commissioner, subject to the provisions of paragraph (e)(11) of this section). Thus, for example, the adjustment required under section 481(a) with respect to the change in method of accounting for such taxpayer shall not be reduced in any manner by any amount pertaining to taxable years preceding the effective date of the Internal Revenue Code of 1954. The adjustment arising from the change in method of accounting is to be taken into account over a period not to exceed 4 years.

(3) *Timing of section 481(a) adjustment.* (i) Any taxpayer required to change its method of accounting under this section shall take into account the adjustment required under the administrative procedures applicable to a voluntary change in method of accounting in effect on January 1, 1987, subject to the following modifications:

(ii) If 75 percent or more of the section 481(a) adjustment is attributable to the 1-taxable year period, 2-taxable year period, or 3-taxable year period immediately preceding the year of change, the highest percent attributable to the 1, 2, or 3-taxable year period is to be taken into account ratably over a 3-taxable year period beginning with the year of change. The remaining balance is to be taken into account in the 4th taxable year (the "75 percent rule"). The 75 percent rule of this paragraph shall only apply if the taxpayer has used its present method of accounting for more than 3 taxable years.

(iii) If paragraph (e)(3)(ii) of this section does not apply, the section 481(a) adjustment is to be taken into account ratably over the number of tax years (not to exceed 4) the taxpayer has used its present method of accounting.

(iv) If the taxpayer is a cooperative within the meaning of section 1381(a), the section 481(a) adjustment may be taken into account entirely in the year of change or, at the taxpayer's election, may be taken into account under the

general procedures applicable to other taxpayers, as modified by the rules of this paragraph.

(v) The use of the expedited procedure described in pargraph (e)(4) of this section may be elected by a taxpayer in applying the 75 percent rule described in paragraph (e)(3)(ii) of this section.

(vi) Any net operating loss and tax credit carryforwards will be allowed to offset any positive section 481(a) adjustment.

(vii) For purposes of determining estimated tax payments, the section 481(a) adjustment will be recognized in taxable income ratably throughout the year in question.

(4) *Expedited procedure for applying the 75-percent rule.* (i) *In general.* Any taxpayer required to change its method of accounting under this section may elect to use the expedited procedure of this paragraph (e)(4)(i) in determining the appropriate period for taking into account the section 481(a) adjustment under the provisions of the 75-percent rule contained in paragraph (e)(3)(ii) of this section. Under the 75-percent rule, the period for taking the section 481(a) adjustment into account may be accelerated if 75 percent or more or the adjustment is attributable to either the 1-taxable year period, 2-taxable year period, or 3-taxable year period immediately preceding the year of change. In order to determine whether the 75-percent rule applies to a taxpayer, the taxpayer is required to compute the section 481(a) adjustment which would have been required had the change in method of accounting occurred in each of the three years preceding the actual year of change. Under the procedure provided in this paragraph (e)(4), in computing the amount of the section 481(a) adjustment that would have been required in the three taxable years preceding the year of change, a taxpayer may—

(A) Compute the percentage increase in the balance of beginning inventory resulting from the change in method of accounting for the taxable year beginning after December 31, 1986, and

(B) Multiply that percentage increase by the beginning inventory balance for each of the three preceding taxable years in issue.

The resulting product shall be the amount of the section 481(a) adjustment for each of the preceding taxable years, respectively. Any taxpayer electing to apply this procedure is required to use such procedure for each of the three taxable years in issue. The election to use this procedure may be made automatically by the taxpayer, without obtaining the consent of the Commissioner, by adopting such procedure in determining the timing of its section 481(a) adjustment under this section.

(ii) *Example illustrating procedure.*

Example. B, a calendar year taxpayer, is required to change its method of accounting for its taxable year beginning January 1, 1987. B's beginning inventory balance as of January 1, 1987, before the change in method of accounting, is $1,000. The revalued inventory balance after applying the change in method of accounting required by this section is $1,100 (a ten percent increase). B's beginning inventory balance as of January 1, 1986, was $900. Under this procedure, for applying the 75-percent rule, B may assume that the amount of the section 481(a) adjustment applicable to a change in method of accounting for the taxable year beginning January 1, 1986, would be $90 (ten percent multiplied by $900).

(5) *General examples.* The following examples illustrate the provisions of this paragraph.

Example (1). Y is required to change its method of accounting under this section for its taxable year beginning January 1, 1987. The adjustment required by section 481(a) to effect such change is $1,000. Y has been using its prior method of accounting for inventories for the 4-year period preceding the year of change. The highest percent of the section 481(a) adjustment attributable to either the 1-taxable year period, 2-taxable year period, or 3-taxable year period preceding the year of change is 67%. Based on the above facts, Y is required to include ratably the section 481(a) adjustment in taxable income for its four consecutive taxable years beginning with 1987, i.e., $250 of the section 481(a) adjustment should be included in taxable income for each of the four years.

Example (2). Assume the same facts as in example 1, except that the highest percent of the section 481(a) adjustment attributable to either the 1-taxable year period, 2-taxable year period, or 3-taxable year period, immediately preceding the year of change is 90%. Based on the above facts, Y is required to include 30% of the total section 481(a) adjustment into taxable income for each of its three consecutive taxable years beginning with 1987. The remaining 10 percent of the section 481(a) adjustment shall be included in income for the fourth taxable year, i.e., 1990.

Example (3). Assume that Y is required under this section to change its method of accounting for its taxable year beginning January 1, 1987. In addition, assume that in accordance with paragraph (e)(3)(iii), Y is required to include the section 481(a) adjustment in income over 4 years beginning with its 1987 taxable year. On December 31, 1987, the aggregate balance of Y's inventory to which the section 481(a) adjustment relates is reduced by more than 33⅓ percent of the aggregate balance at January 1, 1987. Further, the inventory is so reduced by at least such percentage on December 31, 1988. Y must include the remaining balance of the 481(a) adjustment in its income for December 31, 1988.

(6) *Revaluation of inventory*—(i) *In general.* Generally, in revaluing the costs of inventory under the change in method of accounting, taxpayers are required to make a determination, based on all of the facts and circumstances, of the direct and indirect costs which are to be assigned to each time of inventory under the capitalization rules of this section (the "facts and circumstances revaluation"). The facts and circumstances revaluation shall be required for every prior period which is relevant in determining the total restated balance as of the year of change. Paragraph (e)(6)(ii) of this section describes the facts and circumstances revaluation, including the degree of precision and accuracy which is necessary under that method. Paragraph (e)(6) (iii) and (iv) of this section permit the use of certain methods which determine the revaluation of inventory costs through processes of estimation and extrapolation which are not based on a determination of the facts and circumstances of a particular year's data. The methods prescribed in this paragraph (e)(6) (ii), (iii), and (iv) are available with respect to taxpayers producing property, or acquiring property for resale, regardless of whether those taxpayers elected to use the simplified methods available for such activities under this section.

(ii) *Facts and circumstances revaluation*—(A) *In general.* Under the facts and circumstances revaluation, taxpayers generally are required to revalue inventories by applying the capitalization rules of this section to the production and resale activities of the taxpayer, with the same degree of specificity as required of inventory manufacturers under the law immediately prior to the effective date of the Tax Reform Act of 1986. Thus, for example, with respect to any prior period which is relevant in determining the total amounts of the revalued balance as of the year of change, the taxpayer must analyze the production and resale data for that particular period, and apply the rules and principles of this section to determine the appropriate revalued inventory costs. However, under the facts and circumstances revaluation, taxpayers may utilize reasonable estimates and procedures in valuing inventory costs if:

(*1*) Taxpayers lack (and are not able to reconstruct, from their books and records), actual financial and accounting data which is required to apply the capitalization rules of this section to the relevant facts and circumstances

surrounding a particular item of inventory or cost; and

(2) The total amounts of costs for which reasonable estimates and procedures are employed are not significant in comparison to the total restated value (including costs previously capitalized under the taxpayer's prior method of accounting) of the items or costs for the period in question.

Taxpayers who are not able to comply with the latter requirement of the preceding sentence because of the existence of a significant amount of costs which would require the use of estimates and procedures, shall revalue their inventories under the procedures provided in paragraph (e)(6) (iii) and (iv) of this section.

(B) *Estimates and procedures allowed.* The estimates and procedures of this paragraph (e)(6)(ii) include—

(1) The use of available information from more recent periods to estimate the amount and nature of inventory costs applicable to earlier periods; and

(2) The use of available information with resepct to comparable items of inventory produced or acquired during the same period in order to estimate the costs associated with other items of inventory.

(C) *Examples.* The provisions of this paragraph (e)(6)(ii) are illustrated by the following examples. The principles set forth in these examples are applicable both to production and resale activities.

Example (1). Taxpayer X lacks information for the years 1973 and earlier, regarding the amount of costs incurred in transporting finished goods from X's factory to X's warehouse and in storing those goods at the warehouse until their sale to customers. X determines that, for 1974 and subsequent years, such transportation and storage costs constitute 4 percent of the total costs of comparable goods under X's method of accounting for such years (the "section 471 costs"), before revaluation under this section. Under this paragraph (e)(6)(ii), X may assume that transportation and storage costs for the years 1973 and earlier constitute 4 percent of the total section 471 costs of such goods.

Example (2). Assume the same facts as in example (1), except that for the year 1973 and earlier, taxpayer X used a different method of accounting for inventory costs whereunder significantly fewer costs were capitalized under section 471 than amounts capitalized in later years. Thus, the application of transportation and storage based on a percentage of costs for 1974 and later years would not constitute a reasonable estimate for use in earlier years. X may use the information from 1974 and later years, if appropriate adjustments are made to reflect the differences in inventory costs for the applicable years, including, for example: (*i*) increasing the percentage of costs which are intended to represent transportation and storage costs to reflect the aggregate differences in capitalized amounts under the two methods of accounting; or (*ii*) taking the absolute dollar amount of transportation and storage costs for comparable goods in inventory and applying that amount (adjusted for changes in general price levels, where appropriate) to goods associated with 1973 and prior periods.

Example (3). Taxpayer Y lacks information for 1976 and earlier years regarding the amount of tax depreciation applicable to equipment used to manufacture inventories. For such years Y capitalized the amount of depreciation on such equipment equal to the depreciation which was treated as an inventoriable cost for "book" purposes, i.e., for purposes of financial reports. For years 1977 through 1980, Y determines that the requirement to capitalize the total amount of depreciation allowable for tax purposes under this section, results in additional capitalized depreciation equal to 5 percent of the total section 471 costs of the inventory property. Y may assume that the requirement to capitalize tax depreciation for the years 1976 and earlier constitutes as additional 5 percent of the total section 471 cost of such goods.

Example (4). Assume the same facts as in example (3), except that for 1976 and earlier years, taxpayer Y generally did not treat depreciation of equipment and facilities as an inventoriable cost for book purposes. Thus, for reasons similar to those set forth in example (2), Y may not use the revaluation percentages for tax depreciation in 1977 through 1980, in determining the amount of such depreciation for 1976 and earlier years. However, Y may use the available information for 1977 through 1980, if appropriate adjustments, similar to the adjustments prescribed in example (2), are made in determining the applicable amounts for 1976 and earlier years.

Example (5). Taxpayer Z lacks information for certain years with respect to factory administrative costs, subject to capitalization under this section, incurred in the production of inventory in factory A. Z does have sufficient information to determine factory administrative costs with respect to production of inventory in factory B, wherein inventory items were produced during the same years as factory A. Z may use the information from factory B to determine the appropriate amount of factory administrative costs to capitalize as inventory costs for comparable items produced in factory A during the same years.

(iii) *Weighted average method*—(A) *In general.* Taxpayers using the FIFO method of accounting or the specific goods LIFO method of accounting for inventories may use the weighted average method as provided in this paragraph (e)(6)(iii), to estimate the amount of additional costs that must be allocated to inventories for prior years. The weighted average method under paragraph (e)(6)(iii) is only available to taxpayers who lack sufficient data to revalue their inventory costs under the facts and circumstances revaluation method provided for in paragraph (e)(6) of this section. Moreover, taxpayers who qualify for the use of the weighted average method under this paragraph (e)(6)(iii) shall utilize such method only with respect to items or costs for which they lack sufficient information to revalue under the capitalization rules of this section. Particular items or costs must be revalued under the facts and circumstances revaluation method of this paragraph (e)(6)(ii), if sufficient information exists to make such a revaluation. If a taxpayer lacks sufficient information to otherwise apply the weighted average method under this paragraph (e)(6)(iii) (*e.g.*, the taxpayer is unable to revalue the costs of any of its items in inventory due to a lack of information), then the taxpayer shall use reasonable estimates and procedures, as described in the facts and circumstances revaluation method under paragraph (e)(6)(ii) of this section, to whatever extent is necessary to allow the taxpayer to apply the weighted average method.

(B) *Weighted average method for specific goods LIFO taxpayers.* (1) This paragraph (e)(6)(iii)(B) sets forth the mechanics of the weighted average method as applicable to LIFO taxpayers using the specific goods methods of valuing inventories. Under the weighted average method, the inventory layers with respect to an item for which data is available are revalued under this section and the increase in amount for each layer is expressed as a percentage of change from the cost in the layer as originally valued. A weighted average of the percentage of change for all layers for each type of good is computed and applied to all earlier layers for each type of good which lack sufficient data to allow for revaluation. In the case of earlier layers for which sufficient data exists, such layers are to be revalued using actual data. In cases where sufficient data is not available to make a weighted average estimate with respect to a particular item of inventory, a weighted average increase is to be determined using all other inventory items revalued by the taxpayer in the same pool; this percentage increase is then used to revalue the cost of the item for which data is lacking. If the taxpayer lacks sufficient data to revalue any of the inventory items contained in a pool, then the weighted average increase of "substantially similar" items (as determined by principles similar to the rules applicable to dollar-value LIFO taxpayer in § 1.472-8(b)(3)) shall be applied in the revaluation of the items in such pool. If insufficient data exists with respect to all the items in a pool and to

all items which are substantially similar (or such items do not exist), then the weighted average for all revalued items in the taxpayer's inventory shall be applied in revaluing items for which data is lacking.

(2) *Example.*

Example. Taxpayer M, a manufacturer, produces two different parts. Work-in-process inventory is recorded in terms of equivalent units of finished goods. M's records show the following at the end of 1986 under the specific goods LIFO inventory method:

LIFO product and layer	Number	Cost	Carrying values
Product No. 1:			
1983	150	$5.00	$750
1984	100	6.00	600
1985	100	6.50	650
1986	50	7.00	350
Total			2,350
Product No. 2:			
1983	200	4.00	800
1984	200	4.50	900
1985	100	5.00	500
1986	100	6.00	600
Total			2,800

Note: Total carrying value of Product No. 1 and No. 2—5,150

M has sufficient data to revalue the unit costs of product #1 under the new capitalization rules of this section to $7.00 in 1984, $7.75 in 1985 and $9.00 in 1986. The available data for product #1 results in a weighted average percentage change for product #1 of 20.31 percent [(100 x ($7.00 − $6.00)) + (100 x ($7.75 − $6.50)) + (50 x ($9.00 − $7.00)) divided by (100 x $6.00) + (100 x $6.50) + (50 x $7.00)]. *M* has sufficient data to revalue the unit costs of product #2 to $6.00 on 1985 and $7.00 in 1986. The available data for product #2 results in a weighted average percentage change of 18.18 percent [(100 x ($6.00 − $5.00)) + (100 × ($7.00 − $6.00)) divided by (100 × $5.00) + (100 x $6.00)]. The revalued costs for product #1 for 1983 can be estimated by applying the weighted average increase determined for product #1 (20.31 percent) to the unit costs originally carried on the taxpayer's records for 1983. The estimated revalued unit cost in the case of product #1 would be $6.02 ($5.00 x 1.2031). The costs of product #2 are redetermined in a similar manner for 1983 and 1984 by applying the weighted average increase determined for product #2 of 18.18 percent to the unit costs of $4.00 and $4.50 for 1983 and 1984, yielding revalued unit costs of $4.73 and $5.32 respectively. M's inventory would be revalued as follows:

LIFO product and layer	Number	Cost	Carrying values
Product No. 1:			
1983	150	$6.02	$903
1984	100	7.00	700
1985	100	7.75	775
1986	50	9.00	450
Total			2,828
Product No. 2:			
1983	200	4.73	946
1984	200	5.32	1,064
1985	100	6.00	600
1986	100	7.00	700
Total			3,310

Notes:
Total of carrying value of Products No. 1 and No. 2 under section 263A—$6,138
Total amount of adjustment required under section 481(a)—$988

(C) *Weighted average method for FIFO taxpayers.* (1) This paragraph (e)(6)(iii)(C) sets forth the mechanics of the weighted average method as applicable to FIFO taxpayers. Under the weighted average method, an item in ending inventory for which sufficient data is not available for revaluation under this section shall be revalued by using the weighted average percentage increase with respect to such item for the first subsequent year for which sufficient data is available. With respect to an item for which no subsequent data exists, such item shall be revalued by using the weighted average percentage increase with respect to all reasonably comparable items in the taxpayer's inventory for the same year or the first subsequent year for which sufficient data is available.

(2) *Example.*

Example. Taxpayer A uses the FIFO method of valuing inventories. A maintains inventories of bolts, two types of which it no longer produces. Bolt A was last produced in 1984 and 1985. The revaluation of the costs of Bolt A under this section for bolts produced in 1984 results in a 20 percent increase of the costs of Bolt A. A portion of the inventory of bolt A, however, is attributable to 1983. A does not have sufficient data for revaluation of the 1983 layer for Bolt A. With respect to bolt A, A may apply the 20 percent increase determined for 1984 to the 1983 production as an acceptable estimate. Bolt B was last produced in 1982 and no data exists which would allow revaluation of the inventory cost of bolt B pursuant to the rules of this section. The inventories of all other bolts for which information is available are attributable to 1984 and 1985 production. Revaluation of the costs of these other bolts using available data results in an average increase in inventory costs of 15 percent for 1984 production. With respect to bolt B, the overall 15 percent increase for W's inventory for 1984 may be used in revaluing the cost of bolt B.

(iv) *3-year average method*—(A) *In general.* Taxpayers using the dollar-value LIFO method of accounting for inventories may revalue all existing LIFO layers of a trade or business based on the 3-year average method as provided in this paragraph (e)(6)(iv). The 3-year average method is based on the weighted average percentage change (the "3-year revaluation factor") in the current costs of inventory for each LIFO pool based on the three most recent taxable years for which the taxpayer has sufficient information (typically, the three most recent taxable years of such trade or business). The 3-year revaluation factor is applied to all layers for each pool in beginning inventory in the year of change. The 3-year average method is available to dollar-value taxpayers who comply with the requirements of this paragraph (e)(6)(iv) regardless of whether such taxpayers lack sufficient data to revalue their inventory costs under the facts and circumstances revaluation method prescribed in paragraphs (e)(6)(ii) of this section. The 3-year average method must be applied with respect to all inventory in a taxpayer's trade or business. Taxpayers are not permitted to apply the method for the revaluation of some, but not all, inventory costs on the basis of pools, business units, or other measures of inventory amounts which do not constitute a separate trade or business. Under the 3-year average method, for purposes of determining future indexes, the year prior to the year of change becomes a new base year, and all costs are restated in new base year costs for purposes of extending such costs in future years. However, costs associated with old layers retain their separate identity within the base year, with such layers being merely restated in terms of the new base year index. For example, for purposes of determining whether a particular layer has been invaded, each layer shall retain its separate identity; thus, if a decrement in an inventory pool occurs, layers accumulated in more recent years shall be viewed as invaded first, in order of priority. If a taxpayer lacks sufficient information to otherwise apply the 3-year average method under this paragraph (e)(6)(iv) (*e.g.*, the taxpayer is unable to revalue the costs of any of its LIFO pools for three years due to a lack of information), then the taxpayer shall use reasonable estimates and procedures, as described in the facts and circumstances revaluation method under paragraph (e)(6)(ii) of this section, to whatever extent is necessary to allow the taxpayer to apply the 3-year average method.

(B) *Consecutive year requirement.* Under the 3-year average method, if sufficient production data is available to

calculate the revaluation factor for more than three years, the taxpayer may use data from such additional years in determining the average percentage increase only if the additional years are consecutive years prior to the year of change. The requirement under the preceding sentence to use consecutive years is applicable under this method regardless of whether any inventory costs in beginning inventory as of the year of change are viewed as incurred in, or attributable to, those consecutive years under the LIFO method. Thus, the requirement to use data from consecutive years may result in using information from a year in which no LIFO increment occurred. For example, if a taxpayer has sufficient data to revalue its inventory for the years 1981 through 1986, the taxpayer may calculate the revaluation factor using all six years. If, however, the taxpayer has sufficient data to revalue its inventory for the years 1980 through 1982, and 1984 through 1986, only the years consecutive to the year of change (*i.e.*, 1984 through 1986) may be used in determining the revaluation factor. Similarly, for example, a taxpayer with LIFO increments in 1985, 1983, and 1982 may not calculate the revaluation factor based on the data from those years alone, but instead must use the data from consecutive years for which the taxpayer has information.

(C) *Example.*

Example. G, a calendar year taxpayer, first adopted the dollar value LIFO method in 1981, using a single pool and the double extension method. *G's* beginning LIFO inventory for the year of change is as follows:

	Base year costs	Index	LIFO carrying value
Base layer	$14,000	1.00	$14,000
1981 layer	4,000	1.20	4,800
1982 layer	5,000	1.30	6,500
1983 layer	2,000	1.35	2,700
1984 layer	0	1.40	0
1985 layer	4,000	1.50	6,000
1986 layer	5,000	1.60	8,000
Total layer	34,000		42,000

G is able to recompute total inventoriable costs incurred under the rules of this section for the three preceding taxable years as follows:

Current year	Current cost as recorded (prior) law	Current cost as adjusted (263A)	Weighted percentage change
1984 layer	$35,000	$45,150	0.29
1985 layer	43,500	54,375	.25
1986 layer	54,400	70,720	.30
Total	132,900	170,245	.28

Applying the average revaluation factor of .28 to each layer, the inventory is restated as follows:

	Base year costs	Index	LIFO carrying value
Base layer	$17,920	1.00	$17,920
1981 layer	5,120	1.20	6,144
1982 layer	6,400	1.30	8,320
1983 layer	2,560	1.35	3,456
1984 layer	0	1.40	0
1985 layer	5,120	1.50	7,680
1986 layer	6,400	1.60	10,240
Total	43,520		53,760

The adjustment required by section 481(a) is the difference between (*i*) the revalued costs of the taxpayer's inventory under the new capitalization rules, and (*ii*) the costs of the taxpayer's inventory before the revaluation required under this section. Based on these facts, the adjustment required by section 481(a) would be equal to $11,760 ($53,760–$42,000). In addition, the year prior to the year of change in method of accounting shall be treated as a new base year for the purposes of determining the LIFO index in future years. This requires that layers in years prior to the base year be restated in terms of the new base year index. With respect to G, the restated inventory would be as follows:

	Restated base year costs	Index	LIFO carrying value
Old base layer	$28,672	0.625	$17,920
1981 layer	8,192	.75	6,144
1982 layer	10,272	.81	8,320
1983 layer	4,114	.84	3,456
1984 layer	0	.875	0
1985 layer	6,188	.938	7,680
New base layer (1986)	10,240	1.00	10,240
Total	69,678		53,760

(7) *Adjustments to inventory costs from prior years.* (i) *General rule.* (A) The use of the revaluation factor, based on current costs, to estimate the revaluation of prior inventory layers under the 3-year average method as described in paragraph (e)(6)(iv) of this section, may result in an allocation of costs that include amounts attributable to costs not incurred during the year in which the layer arose. To the extent that a taxpayer can demonstrate that costs which contributed to the determination of the revaluation factor could not have affected a prior year, the revaluation factor as applied to that year may be adjusted, under the restatement adjustment procedure, as described in paragraph (e)(9) of this section. Except as provided in paragraph (e)(7)(iii) of this section, the determination that a cost could not have affected a prior year shall be made by a taxpayer only upon showing that the type of cost incurred during the years used to calculate the revaluation factor (the "revaluation years"), was not present during such prior year. An item of cost will not be eligible for the restatement adjustment procedure simply by reason of the fact that the cost varies in amount from year to year or that the same type of cost is described or referred to by a different name from year to year. Thus, the restatement adjustment procedure allowed under paragraph (e)(9) of this section shall not be available in a prior year with respect to a particular cost if the same type of cost was incurred in both the revaluation years and in such prior year, although the amount of such cost (and the name or description thereof) may vary.

(B) The provisions of this paragraph (e)(7) shall also be applicable to taxpayers using the weighted average method in revaluing inventories under paragraph (e)(6)(iii) of this section. Thus, to the extent that a taxpayer can demonstrate that costs which contributed to the determination of the restatement of a particular year or item could not have affected a prior year or item, the taxpayer may adjust the revaluation of that prior year or item accordingly under the weighted average method. All the requirements and definitions, however, applicable to the restatement adjustment procedure under this paragraph (e)(7) shall fully apply to a taxpayer using the weighted average method to revalue inventories.

(ii) *Examples of costs eligible for restatement adjustment procedure.*

Example (1). Assume the taxpayer, A, introduced a defined benefit pension plan in 1984, and made the plan available to personnel whose labor costs were (directly or indirectly) properly allocable to production or resale activities. A determines the revaluation factor based on data available for the years 1984 through 1986, for which the pension plan was in existence. Based on these facts, the costs of the pension plan in the revaluation years are eligible for the restatement adjustment procedure for years prior to 1984.

Example (2). Assume the same facts as in example (1), except that a defined contribution plan was available, during prior years, to personnel whose labor costs were properly allocable to production or resale activities. The defined contribution plan was terminated before the introduction of the defined benefit plan in 1984. Based on these facts, the costs of the defined benefit pension plan in the revaluation years are not eligible for the restatement adjustment procedure with respect to years for which the defined contribution plan existed.

Example (3). Assume that the taxpayer, B established a service department in 1981, substantially all of the activities of which were devoted to administering the taxpayer's compliance with certain governmental regulations which were first issued and made effective for the year 1981. The governmental regulations issued in 1981 dealt with certain activities of the taxpayer which, under prior law, had not been regulated by any governmental body. B determines the

revaluation factor based on data available for the years 1984 through 1986, for which the service department was in existence. Based on these facts, the costs of the service department in the revaluation years are eligible for the restatement adjustment procedure for 1980 and prior years.

Example (4). Assume that the taxpayer, C, established a security department in 1976, to patrol and safeguard the production and warehouse areas used in C's trade or business. Prior to 1976, C had not been required to utilize security personnel in its trade or business; C established the security department in 1976 in response to increasing vandalism and theft at its plant locations. Based on these facts, the costs of the security department are eligible for the restatement adjustment procedure for years prior to 1976.

Example (5). Assume that the taxpayer, D, established a payroll department in 1978 to process the company's weekly payroll. In the years 1974 through 1977, D engaged the services of an outside vendor to process the company's payroll. Prior to 1974, D's payroll processing department was done by D's accounting department, which was responsible for payroll processing as well as for other accounting functions. Based on these facts, the costs of the payroll department are not eligible for the restatement adjustment procedure. D was incurring the same type of costs in earlier years as D was incurring in the payroll department in 1978 and subsequent years, although these costs were designated by a different name or description.

Example (6). Assume that the taxpayer, E, established a legal department in 1976 to provide the company with legal services on a variety of matters. Prior to 1976, E engaged the services of outside counsel to obtain any necessary legal services. Based on these facts, the costs of the legal department are not eligible for the restatement adjustment procedure.

Example (7). Assume that the taxpayer, F, establishes a computer services department in 1977 in order to automate the processing and recordkeeping activities of the company. Prior to 1977, the processing and recordkeeping activities of the company had been performed by bookkeepers and other personnel in the company's accounting department. Based on these facts, the costs of the legal department are not eligible for the restatement adjustment procedure.

(iii) *Exception from general rule.* Costs which are described in this paragraph (e)(7)(iii) shall be eligible for the restatement adjustment procedure under paragraph (e)(9) of this section, even though such costs do not otherwise meet the requirements for such eligibility under the provisions of paragraph (e)(7)(i) of this section. Except as provided in this paragraph (e)(7)(iii), no other costs shall be eligible for the restatement adjustment procedure unless those costs satisfy the requirements of paragraph (e)(7)(i) of this section. Costs described in this paragraph which are eligible for the restatement adjustment procedure are costs attributable to different depreciation and cost recovery ("depreciation") methods used for federal income tax purposes, except that no adjustment shall be made for "applicable pre-cutoff years" as defined in paragraph (e)(8) of this section.

(iv) [Reserved.]

(v) *Example.*

Example. Assume that taxpayer, A, depreciated its equipment and facilities using the accelerated cost recovery system (ACRS) for the taxable years 1981 through 1986. A determines the revaluation factor based on data available for the years 1984 through 1986. With respect to taxable years prior to 1981, A used depreciation methods for federal income tax purposes which were less accelerated in nature than the ACRS system. Due to the requirement under this section that all tax depreciation (including the accelerated component thereof) incurred with respect to production equipment and facilities be capitalized, the use of the revaluation factor determined by reference to years 1984 through 1986 results in a higher revaluation factor than the factor which would be applicable for years prior to 1981 based on the facts and circumstances of those years. Although the differences in depreciation methods reflect only varying amounts of the same type of costs, such differences are eligible for the adjustment prescribed in paragraph (e)(9) of this section, subject to the requirements of this paragraph (e)(8) regarding any applicable pre-cutoff years.

(8) *Applicable pre-cutoff years.* A taxpayer may not adjust the revaluation factor by reason of the difference between depreciation methods used for federal income tax purposes, with respect to an applicable pre-cutoff year, as defined in this paragraph. A year will be considered as an applicable pre-cutoff year if (i) for such year, the taxpayer included in inventoriable costs under its method of accounting, less than 10 percent of "book" depreciation taken for that year with respect to the taxpayer's equipment and facilities used for production purposes; and (ii) with respect to the revaluation years, the taxpayer included in inventoriable costs under its method of accounting substantially all (i.e., at least 80 percent) of "book" depreciation taken for that year with respect to the taxpayer's equipment and facilities used for production purposes. Book depreciation, for this paragraph, shall mean the total depreciation taken for such year with respect to equipment and facilities for financial reporting purposes, regardless of whether such book depreciation was treated as an inventoriable cost for such financial reporting purposes. A year may be treated as an applicable pre-cutoff year under this paragraph (e)(8) if the taxpayer utilized either of the cut-off methods described in § 1.471-11(e)(3)(ii)(B) (*1*) or (*2*) (*i.e.*, cut-off methods available under the transition rules to the full absorption method of accounting) and the year otherwise qualifies as an applicable cut-off year under this paragraph. Similarly, a year may be treated as a pre-cut-off year under this paragraph, if the taxpayer changed its method of accounting for inventoriable costs and utilized a cut-off method to effectuate such change, regardless of whether the change in method of accounting was allowed under the Code, or was approved by the Commissioner. Although a particular year may be an applicable pre-cutoff year under this paragraph, the taxpayer will not be precluded from adjusting the revaluation factor with respect to differences between depreciation methods used for federal income tax purposes, for years subsequent to the applicable pre-cutoff year.

(9) *Restatement Adjustment Procedure.* (i) *In general.* (A) This paragraph (e)(9) provides a restatement adjustment procedure whereunder taxpayers may adjust the restatement of inventory costs in prior taxable years in order to produce a different restated value than the value that would otherwise occur through application of the revaluation factor to such prior taxable years.

(B) Under the restatement adjustment procedure as applied to a particular prior year, a taxpayer shall determine the particular items of cost which are eligible for the restatement adjustment with respect to such prior year. The taxpayer shall then recompute, by using reasonable estimates and procedures, the total inventoriable costs which would have been incurred for each revaluation year under—

(*1*) The taxpayer's previous method of accounting for inventories used during the revaluation year, and

(*2*) The capitalization rules of this section as applied to production activities in the revaluation year,

by making appropriate adjustments in the data for such revaluation year to reflect the particular costs eligible for adjustment.

(C) The taxpayer shall then compute the total percentage change with respect to each revaluation year, using the revised estimates of total inventoriable costs for such year as described in this paragraph (e)(9)(i)(B). The percentage change shall be determined by calculating the ratio of:

(*1*) The revised total of the inventoriable costs for such revaluation year under the capitalization rules of this section, to—

(2) The revised total of the inventoriable costs for such revaluation year under the prior method of accounting used for such year.

(D) A weighted average of the resulting percentage change for all revaluation years would then be calculated, and the resulting average would then be applied to the prior year in issue.

(ii) *Examples of restatement adjustment procedure*

Example (1). Assume that taxpayer A is eligible to make a restatement adjustment by reason of the costs of a defined benefit pension plan which was introduced in 1984, during the revaluation period. The revaluation factor, before adjustment of data to reflect the pension costs, is as provided in the example in paragraph (e)(6)(iv)(C) of this section. Thus, for example, with respect to the year 1984, the total inventoriable costs under prior law were $35,000 the total inventoriable costs under this section were $45,150, and the percentage restatement change for that year was .29. Under the prior method of accounting used by A during 1984, none of the pension costs were included as inventoriable costs. Thus, the total inventoriable cost under prior law would remain at $35,000 if the pension plan had not been in existence. Under the restatement adjustment procedure, A determines that the total inventoriable costs under this section for 1984, if the pension plan had not been in existence, would have been $42,000. The restatement adjustment for 1984 determined under this paragraph (e)(9) would then be equal to .20. A would make similar calculations with respect to 1985 and 1986. The weighted average of such amounts for each of the three years in the revaluation period would then be determined as in the example in paragraph (e)(6)(iv)(C) of this section. Such weighted average would be used to revalue cost layers for years for which the pension plan was not in existence. Such revalued layers would then be viewed as restated in compliance with the requirements of this paragraph. With respect to cost layers incurred during years for which the pension plan was in existence, no adjustment of the revaluation factor would occur, *i.e.*, the revaluation factor would be equal to .29.

Example (2). Assume the same facts as in example (1), except that a portion of the pension costs were included as inventoriable costs under the prior method of accounting used by A during 1984. Under the restatement adjustment procedure, A determines that the total inventoriable costs under the prior method of accounting for 1984, if the pension plan had not been in existence, would have been $34,000. Similarly, A determines that the total inventoriable costs under this section for 1984, if the pension plan had not been in existence, would have been $42,000. The restatement adjustment for 1984 determined under this paragraph (e)(9) would then be equal to .24. A would make similar calculations with respect to 1985 and 1986. The weighted average of such amounts for each of the three years in the revaluation period would then be determined as in the example in paragraph (e)(6)(iv)(C) of this section. Such weighted average would be used to revalue cost layers for years for which the pension plan was not in existence.

Example (3). Assume that taxpayer A is eligible to make a restatement adjustment by virtue of using ACRS depreciation during the revaluation period. With respect to certain taxable years before 1981, A used the asset depreciation range and class life system (ADR) of depreciation. The revaluation factor before adjustment of data to reflect the different depreciation methods is the same factor as provided in example (1), i.e., a percentage restatement change for 1984 of .29. Under the restatement adjustment procedure, A determines, using reasonable assumptions and estimates, the total amount of ADR depreciation which would have been allowable with respect to A's equipment and facilities in 1984, had the ADR system been in effect for such year (and for all relevant prior years), and had the ACRS system and deductions thereunder not been available. Assuming that only ADR depreciation had been used in 1984 for all of A's equipment and facilities, A determines the total inventoriable costs which would have been incurred under the capitalization rules of this section, *i.e.* rules which require the capitalization of all tax depreciation taken with respect to equipment and facilities. A determines that such amount is equal to $40,000. The restatement adjustment determined under this paragraph (e)(9) would then be equal to .14. The .14 restatement adjustment would be used to revalue costs layers for years for which only the ADR system had actually been used by A. With respect to cost layers incurred during years for which ACRS depreciation was actually taken by A, no adjustment of the revaluation factor would occur.

(10) *Anti-abuse rule*—(i) *In general.* Section 263A(h)(1) provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 263A, including regulations to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section. One way in which the application of section 263A and this section would be otherwise avoided is through the use of entities described in the preceding sentence in such a manner as to effectively avoid the necessity to restate beginning inventory balances under the change in method of accounting required under this section.

(ii) *Deemed avoidance of this section*—(A) *Scope.* For purposes of this paragraph, the avoidance of the application of section 263A and this section will be deemed to occur if a taxpayer using the LIFO method of accounting for inventories, transfers inventory property to a related corporation in a transaction described in section 351, and such transfer occurs:

(*1*) On or before the beginning of the transferor's taxable year beginning in 1987; and

(*2*) After September 18, 1986.

(*B*) *General rule.* Any transaction described in paragraph (e)(10)(ii)(A) of this section shall be treated in the following manner:

(*1*) Notwithstanding any provision to the contrary (*e.g.*, section 381), the tranferee corporation shall be required to revalue the inventories acquired from the transferor under the provisions of this paragraph (e) relating to the change in method of accounting and the section 481(a) adjustment, as if the inventories had never been transferred and were still in the hands of the transferor; and

(*2*) Absent an election as described in paragraph (e)(10)(iii) of this section, the transferee shall account for the inventories acquired from the transferor by treating such inventories as if they were contained in the transferee's LIFO layer(s).

(iii) *Election to use transferor's LIFO layers.* If a transferee described in paragraph (e)(10)(ii) of this section so elects, the transferee shall account for the inventories acquired from the transferor by allocating such inventories to LIFO layers corresponding to the layers to which such properties were properly allocated by the transferor, prior to their transfer. The transferee shall account for such inventories for all subsequent periods with reference to such layers to which the LIFO costs were allocated. Any such election shall be made on a statement attached to the timely filed federal income of the transferee for the first taxable year for which this section applies to the transferee.

(iv) *Tax avoidance intent not required.* The provisions of paragraph (e)(10)(ii) of this section shall apply to any transaction described therein, without regard to whether such transaction was consummated with an intention to avoid federal income taxes.

(v) *Related corporation.* For purposes of this paragraph (e)(10), a taxpayer is related to a corporation if (A) the relationship between such persons is described in section 267(b)(1), or (B) such persons are engaged in trades or businesses under common control (within the meaning of paragraphs (a) and (b) of section 52).

(vi) *Cross reference.* See § 1.142–2T(h) regarding certain limitations on changes in taxable years that may apply, in some circumstances, to transactions described in this paragraph (e)(10).

(11) *Change in methods in accounting.* (i) *In general.* Taxpayers who are required to change their method of

accounting under this section may automatically change such method under the provisions of this paragraph (e)(11). The Commissioner may require such change in method of accounting under this paragraph (e)(11) to be made in accordance with such additional procedures as the Commissioner may prescribe, including the filing of an application to effect such change, at such time and in such a manner as the Commissioner may determine.

(ii) *Only certain changes allowed.* This paragraph shall only apply to changes in method of accounting required under this section. Taxpayers desiring to change their method of accounting, other than with respect to changes in method of accounting described in the preceding sentence, shall submit an application for change in accounting method under the administrative procedures applicable to such taxpayers at such time, including the applicable procedures regarding the time and place of filing the application for change in method of accounting.

(iii) *Definition of changes in method required.* For purposes of this paragraph (e)(11), a change in method of accounting is required under this paragraph (e)(11) if such change is necessary in order for the taxpayer to properly capitalize and allocate costs with respect to production and resale activities in the manner prescribed in this section. A change in method of accounting is not required under this paragraph (e) (11) if such change primarily relates to factors other than those described in the preceding sentence. For example, a required change in method of accounting does not include a change from one inventory valuation method to another inventory valuation method, such as—

(A) A change from LIFO (or FIFO) to FIFO (or LIFO);

(B) A change from an erroneous application of the lower of cost or market method to a correct method; or

(C) A change in accounting method for an inventory of securities from market value to cost.

In addition, a required change in method of accounting does not include a change within inventory valuation methods, such as a change from the "double-extension" method to the "link-chain method", or a change in the method used for determining the number of pools.

(iv) *Noncompliance with this provision.* Taxpayers who are required to change their method of accounting under this section and who fail to comply with the requirements of this paragraph (e)(11) shall be considered as using an improper method of accounting under the Code *Cf.*, section 446(f).

(f) *Cross reference.* See § 1.6001–1(a) regarding the duty of taxpayers to keep such records as are sufficient to establish the amount of gross income, deductions, etc.

Par. 3. Section 1.174–2 is amended by adding a sentence to the end of paragraph (a)(1) to read as follows:

§ 1.174–2 Definition of research and experimental expenditures.

(a) *In general.* * * *

(1) * * * See section 263A and the regulations thereunder for cost capitalization rules which apply to expenditures paid or incurred for research in connection with literary, historical or similar projects involving the production of property, including the production of films, sound recordings, video tapes, books, or similar properties.

* * * * *

Par. 4. Section 1.263(a)–1 is amended by adding a sentence to the end of paragraph (b) to read as follows:

§ 1.263(a)–1 Capital expenditures; in general.

* * * * *

(b) * * * Section 263A and the regulations thereunder for cost capitalization rules which apply to amounts referred to in paragraph (a) of this section with respect to the production of real and tangible personal property (as defined in § 1.263A–1T (a)(5)(iii)), including films, sound recordings, video tapes, books, or similar properties.

* * * * *

Par. 5. Section 1.263(a)–2 is amended by adding a sentence to the end of paragraph (b) to read as follows:

§ 1.263(a)–2 Examples of capital expenditures.

* * * * *

(b) * * * See section 263A and the regulations thereunder for capitalization rules which apply to amounts expended in securing and producing a copyright and plates in connection with the production of property, including films, sound recordings, video tapes, books, or similar properties.

* * * * *

Par. 6. Section 1.446–1 is amended by revising the last sentence in paragraph (a)(4)(i) to read as follows:

§ 1.446–1 General rule for methods of accounting.

(a) *General rule.* * * *

(4) * * *

(i) * * * (For rules relating to computation of inventories, see section 263A, 471, and 472 and the regulations thereunder.)

* * * * *

Par. 7. Section 1.471–3 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 1.471–3 Inventories at cost.

* * * * *

(c) * * * See § 1.263A–1T for more specific rules regarding the treatment of production costs.

* * * * *

Par. 8. Section 1.471–5 is amended by adding a sentence to the end of such section to read as follows:

§ 1.471–5 Inventories by dealers in securities.

* * * See § 1.263A–1T for rules regarding the treatment of costs with respect to property acquired for resale.

Par. 9. Section 1.471–6 is amended by adding a sentence to the end of paragraph (f) to read as follows:

§ 1.471–6 Inventories of livestock raisers and other farmers.

* * * * *

(f) * * * See § 1.263A–1T for rules regarding the computation of costs for purposes of the unit livestock-price method.

* * * * *

Par. 10. Section 1.471–8 is amended by adding a sentence to the concluding text of paragraph (a) to read as follows:

§ 1.471–8 Inventories of retail merchants.

(a) * * *

* * * See § 1.263A–1T for rules regarding the computation of costs with respect to property acquired for resale.

* * * * *

Par. 11. Section 1.471–11 is amended by adding a sentence to the end of paragraph (a) to read as follows:

§ 1.471–11 Inventories of manufacturers.

(a) *Use of the full absorption method of inventory costing.* * * * See § 1.263A–1T with respect to the treatment of production costs with respect to taxable years beginning after December 31, 1986.

* * * * *

Par. 12. Section 1.1502–13 is amended by revising the last sentence of paragraph (c)(2) to read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(c) *Deferral of gain or loss on deferred intercompany transactions.* * * *

(2) *Determination of amount of deferred gain or loss.* * * * See

§ 1.263A–1T for costs properly includible in cost of goods sold.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 13. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 14. Section 602.101(c) is amended by inserting in the appropriate places in the table "§ 1.263A–1T . . . 1545–0987", "§ 1.263A–1T . . . 1545–0987".

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: March 20, 1987.

J. Roger Mantz,

Assistant Secretary of the Treasury.

[FR Doc. 87–6720 Filed 3–24–87; 3:17 pm]

BILLING CODE 4830–01–M

---

26 CFR Part 5h

[T.D. 8124]

Certain Elections Under the Tax Reform Act of 1986; Corrections

AGENCY: Internal Revenue Service, Treasury.

ACTION: Corrections to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8124, which was published in the Federal Register for Thursday, February 5, 1987 (52 FR 3623). T.D. 8124 issued temporary regulations relating to the time and manner of making certain elections under the Tax Reform Act of 1986. The rules also provided guidance to persons making these elections.

FOR FURTHER INFORMATION CONTACT: Joel S. Rutstein, 202–566–3297 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of these corrections relate to certain elections under various sections of the Internal Revenue Code of 1986 and the Tax Reform Act of 1986 (the Act). These rules were added to the Temporary Regulations—Elections Under Various Public Laws (26 CFR Part 5h).

Need for Corrections

As published, Treasury Decision 8124 contains three typographical errors and one error of omission within the table under regulations § 5h.5. The three typographical errors fall under the heading "Availability of Election" on page 3625. The first error appears in printed line 20, the second error in printed line 39, and the third error in printed line 43.

The error of omission occurs under the heading "Section of Act" on page 3626 and appears in printed line 20.

Three additional typographical errors appear in the following locations: Page 3627, third column, first paragraph, line 20; page 3627, third column, third paragraph, line one; and page 3629, second column, fourth paragraph, line one.

Corrections of Publication

Accordingly, the publication of Treasury Decision 8124, which was the subject of FR Doc. 87–2219, is corrected as follows:

PART 5h—[CORRECTED]

§ 5h.5 [Corrected]

Paragraph 1. In the table, on page 3625, under the heading "Availability of Election", printed line 20, the upper-case letter "S" is removed from the word "Section" and the lower-case letter "s" is added in its place.

Par. 2. In the table, on page 3625, under the heading "Availability of Election", printed line 39, the misspelled word "occuring" is removed and the correct spelling of the word "occurring" is added in its place.

Par. 3. In the table, on page 3625, under the heading "Availability of Election", printed line 43, the word "the" is added immediately following the word "on".

Par. 4. In the table, on page 3626, under the heading "Section of Act", printed line 20, the letter "1" is added within the parenthesis immediately following the act section number "1810".

Par. 5. In § 5h.5, paragraph (a) (3) (iv), page 3627, third column, line 20, the word "paragraph" is removed and the word "paragraphs" is added in its place.

Par. 6. In § 5h.5, paragraph (a) (3) (vi), page 3627, third column, line one, the word "the" is added immediately following the word "making".

Par. 7. In § 5h.5, paragraph (e) (3), page 3629, second column, line one, the word "Partnership" is removed and the word "Partnerships" is added in its place.

Donald E. Osteen,

Director, Legislation and Regulations Division.

[FR Doc. 87–6927 Filed 3–27–87; 8:45 am]

BILLING CODE 4830–01–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity Commission in the Federal Government; Nomenclature Change

AGENCY: Equal Employment Opportunity Commission (EEOC).

ACTION: Final rule.

SUMMARY: The U.S. Equal Employment Opportunity Commission is changing the organizational title of its Complaints Examiner to Administrative Judges. The change is being made to reflect more accurately the nature of the position. The authority and duties of these positions remain the same as indicated in the current EEOC regulations.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Assistant Legal Counsel, or James M. Lager, Staff Attorney, at (202) 634–6690.

For the Commission.

Clarence Thomas,

Chairman.

PART 1613—[AMENDED]

1. The authority citation for Part 1613 continues to read as follows:

Authority: 5 U.S.C. secs. 1301, 3301, 3302, 7151–7154, 7301, E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218; E.O. 11222, 3 CFR, 1964–1965 Comp., p. 306, E.O. 11478, 3 CFR, 1969 Comp., p. 133, unless otherwise noted.

§ 1613.218 [Amended]

2. Section 1613.218(a) is amended by removing the words "a complaints examiner" and inserting, in their place, the words "an Administrative Judge or complaints examiner," and by removing the words "complaints examiner" and inserting, in their place, the words "Administrative Judge."

§ 1613.220 [Amended]

3. Section 1613.220(c) is amended by removing the words "a complaints examiner" and inserting, in their place, the words "an Administrative Judge."

§§ 1613.222, 1613.604, 1613.608 and 1613.612 [Amended]

4. Sections 1613.222, 1613.604(i), 1613.608(b)(2), and 1613.612(b) are amended by removing the words "complaints examiner's" and inserting, in their place, the words "Administrative Judge's."

5. Elsewhere in 29 CFR Part 1613, the Part is amended by removing the words "complaints examiner" and "complaints examiner's", wherever they appear and inserting in their place the words "Administrative Judge" or "Administrative Judge's", respectively.

[FR Doc. 87-6953 Filed 3-27-87; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 214 and 215

Youth Conservation Corps and Young Adult Conservation Corps State Grant Programs

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: As a result of its continuing review of existing regulations as required by E.O. 12291, the Department of Agriculture hereby removes its regulations at 36 CFR Part 214 and Part 215 governing State Grant Programs for the Youth Conservation Corps and Young Adult Conservation Corps.

EFFECTIVE DATE: This rule is effective March 30, 1987.

FOR FURTHER INFORMATION CONTACT: L. Wayne Bell, Human Resource Programs Staff, Forest Service, USDA, P.O. Box 96090, Washington, DC 20013-6090. (202) 535-0927.

SUPPLEMENTARY INFORMATION: The State grant portion of the Youth Conservation Corps program has not received appropriated funds since fiscal year 1981 and no funds are anticipated for this program in the future. Therefore, the regulations are obsolete and should be removed. The enabling legislation for the Young Adult Conservation Corps (29 U.S.C. 801 et. seq.) has expired. Accordingly, the regulations at 36 CFR Part 215 governing grants to States for Young Adult Conservation Corps programs are no longer viable and are being removed.

This action results from prior decisions of the Administration and the Congress, and does not represent any discretionary action on the part of the Department. Therefore, this amendment is deemed to be a technical administrative action outside the scope of, and exempt from, the regulatory clearance provisions of E.O. 12291.

Since the regulations are obsolete, there is good cause of promulgating this rulemaking action without opportunity for public comment.

Therefore, for the reasons set forth above, Title 36 of the Code of Federal Regulations is amended by removing Parts 214 and 215 in their entirety.

PART 214-[REMOVED]

PART 215-[REMOVED]

Dated: March 20, 1987.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 87-6931 Filed 3-27-87; 8:45 am]

BILLING CODE 3410-11-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201-8, 201-11, 201-30, and 201-34

[FIRMR Amdt. 9]

Implementation of Federal Information Processing Standards (FIPS), Federal Telecommunications Standards (FED-STDS), and Acquisition Policies in the Federal Information Resources Management Regulation (FIRMR)

AGENCY: Information Resources Management Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation updates and implements FIRMR provisions for thirteen Federal Information Processing Standards (FIPS) and one Federal Telecommunications Standard (FED-STD) to provide associated standard terminology to be used in solicitation documents and requirements documents as applicable. The general terminology of FIPS PUBS 21, 68, 69, and 111 is updated; FIPS PUBS 104-1, 109, 112 through 119, and FED-STD 1033 are added; and, FIPS PUBS 46 and 81 are relocated to a new section that reflects the National Bureau of Standards' categorization of ADP operations standards. This regulation also identifies the statutory authority citation required for the justification permitting other than full and open competition for specific make and model information resources acquisitions, as required by FAR Subpart 6.3. This regulation also reflects the transfer of compiler validation testing from the General Services Administration to the National Bureau of Standards. The intended effect of this regulation is to enhance economy and efficiency in the acquisition of automatic data processing and telecommunications resources (information resources).

EFFECTIVE DATE: May 29, 1987.

FOR FURTHER INFORMATION CONTACT: Phillip R. Patton, Regulations Branch (KMPR), Information Resources Management Service, telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: 1. Ten new sections, with the related text material, are being added to FIRMR Part 201-8 in order to implement the following new standards: FIPS PUBS 109, 112, 113, 114, 115, 116, 117, 118, 119, and FED-STD 1033. In addition, four sections are being revised in FIRMR Part 201-8 in order to update FIPS PUBS 21, 68, 69, and 111.

2. The changes being made to FIRMR Part 201-8 by this issuance are explained in the following paragraphs.

a. Section 201-8.101-1 is revised to inform agencies of the existence of Interim Federal Standards for optional use.

b. Section 201-8.103-5 is added to incorporate the definition of ADP Operations Standards.

c. Section 201-8.104 is revised to inform agencies that under Pub. L. 94-168, the Metric Conversion Act of 1975, that the policy is to coordinate and plan for the increasing use of the metric system by expressing standards in both inch and metric units.

d. Section 201-8.105-15 is revised by relocating coverage of FIPS PUB 46 to section 201-8.111-1 and reserving this section.

e. Section 201-8.105-24 is revised by relocating coverage of FIPS PUB 81 to section 201-8.111-2 and reserving this section.

f. Section 201-8.105-37 is amended to make minor changes to paragraphs (a), (b), and (d).

g. Section 201-8.105-38 is added to incorporate FIPS PUB 114, 200 mm (8 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 6631 bprad on One Side—1.9 tpmm (48 tpi) for Information Interchange.

h. Section 201-8.105-39 is added to incorporate FIPS PUB 115, 200 mm (8 in) Flexible Disk Cartridge Track Format Modified Frequency Modulation Recording at 13262 bprad on Two Sides—1.9 tpmm (48 tpi) for Information Interchange.

i. Section 201-8.105-40 is added to incorporate FIPS PUB 116, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 3979 bprad on One Side—1.9 tpmm (48 tpi) for Information Interchange.

j. Section 201–8.105–41 is added to incorporate FIPS PUB 117, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 7958 bprad on Two Sides—1.9 tpmm (48 tpi) for Information Interchange.

k. Section 201–8.105–42 is added to incorporate FIPS PUB 118, Flexible Disk Cartridge Labelling and File Structure for Information Interchange.

l. Section 201–8.107 is revised to stipulate the provisions to follow for high level languages, unless a waiver has been approved, and to provide a NBS contact point for resolving questions on FIPS programming languages and requirements.

m. Section 201–8.107–1 is amended to update the terminology and to change the standards reference from FIPS PUB 21–1, Federal Standard COBOL to FIPS PUB 21–2, COBOL.

n. Section 201–8.107–2 is amended to change references to FIPS PUB 68–1 as Federal Standard Minimal BASIC to Minimal BASIC.

o. Section 201–8.107–3 is amended to change references to FIPS PUB 69–1 as Federal Standard FORTRAN to FORTRAN.

p. Section 201–8.107–4 is added to incorporate FIPS PUB 109, Pascal.

q. Section 201–8.107–5 is added to incorporate FIPS PUB 119, Ada.

r. Section 201–8.108 is revised by relocating coverage of "Development or acquisition of application programs" to section 201–8.108–1 and changed to incorporate the caption and text that was previously located in section 201–8.111.

s. Section 201–8.108–1 is added to incorporate the caption and text that was in section 201–8.108.

t. Section 201–8.109 is amended to change paragraphs (b), (c), (d), (e), (g), (h), (i), (j), and (k) to update the terminology with information on current practices in compiler validation. The section is also amended to reflect the transfer of the compiler validation testing function from the Federal Software Testing Center of the General Services Administration to the Institute of Computer Sciences and Technology of the National Bureau of Standards.

u. Section 201–8.110–1 is revised to add FIPS PUB 104–1, American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange, to the list of FIPS PUBS contained in this section.

v. Section 201–8.111 is revised by relocating coverage of "application standards requirement statements" and changed to incorporate a new category of standards entitled "ADP operations standards."

w. Section 201–8.111–1 is added to relocate (from § 201–8.105–15) with minor modifications FIPS PUB 46, Data Encryption Standard (DES).

x. Section 201–8.111–2 is added to relocate (from § 201–8.105–24) FIPS PUB 81, Data Encryption Standard (DES) Modes of Operations.

y. Section 201–8.111–3 is added to incorporate FIPS PUB 112, Password Usage.

z. Section 201–8.111–4 is added to incorporate FIPS PUB 113, Computer Data Authentication.

aa. Section 201–8.112–17 is added to incorporate FED–STD 1033, Telecommunications: Data Communication Systems and Services—User-Oriented Performance Parameters.

3. Section 201–11.002–1, Use and documentation of specific make and model specifications, is amended by adding two sentences to paragraph (b). FAR 6.303–2(a)(4) requires that agency justifications for other than full and open competition identify the statutory authority permitting the action. The two added sentences identify the statutory authority for information resources acquisitions.

4. A new § 201–30.019 has been added to Part 201–30 to reflect the transfer of the complier validation testing function from the Federal Software Testing Center of the General Services Administration to the Institute of Computer Sciences and Technology of the National Bureau of Standards. Additionally, § 201–30.018–3 is modified by removing the text and reserving the section.

5. To further reflect the change in compiler validation testing responsibility, a new § 201–34.003, Compiler validation testing, is being added to Part 201–34 to include that function as a supporting ADP activity.

6. A notice of proposed rulemaking for this amendment was published in the **Federal Register** (51 FR 23248, June 26, 1986) indicating the availability of the proposed final rule for review and comment by interested parties. All comments received have been considered.

7. The General Services Administration (GSA) has determined that this rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981. GSA decisions are based on adequate information concerning the need for and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Governmentwide management regulation that will have little or no cost effect on society. Therefore, the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 41 CFR Parts 201–8, 201–11, 201–30, and 201–34

Computer technology, Telecommunications, Information resources activities, Standards for information resources, Government procurement, Government property management, Competition.

PART 201–8—IMPLEMENTATION AND USE OF FEDERAL STANDARDS

1. The table of contents for Part 201–8 is changed by amending, reserving or adding the following entries and the authority citation for the part is revised to read as follows:

Sec.

Sec.
201–8.112–17 FED–STD 1033, Telecommunications: Data Communication Systems and Services—User-Oriented Performance Parameters.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Sec. 101(f), 100 Stat. 2128; 40 U.S.C. 751(f).

2. Section 201–8.101–1 is revised to read as follows:

§ 201–8.101–1 Implementation.

(a) *Mandatory use of Federal standards.* Agencies shall implement Federal standards for the acquisition and use of automatic data processing and telecommunications equipment, services, and related software as prescribed by this subpart.

(b) *Optional use of interim standards.* Certain Federal standards are published as "interim" (INT–FED–STD). Agencies are not required, but are encouraged to implement these standards for acquisition and use in appropriate situations. Standard terminology for these interim standards is not provided. Agencies shall develop requirements statements for use in requirements documents consistent with their intended use of the interim standard.

3. Section 201–8.103–5 is added to read as follows:

§ 201–8.103–5 ADP operations standards.

"ADP operations standards" is that category of standards which includes areas of standardization such as benchmarking, computer performance management, computer security, and management of multivendor ADP systems.

4. Section 201–8.104 is amended by adding paragraph (c) to read as follows:

§ 201–8.104 Application of standards to requirements.

* * * * *

(c) Pub. L. 94–168 (Metric Conversion Act of 1975) provided that the policy of the United States shall be to coordinate and plan for the increasing use of the metric system of measurement. Standard terminology for standards implemented in this Subpart 201–8.1 is expressed in both inch and metric units, as applicable.

5. Section 201–8.105–15 is removed and reserved to read as follows:

§ 201–8.105–15 [Reserved]

6. Section 201–8.105–24 is removed and reserved to read as follows:

§ 201–8.105–24 [Reserved]

7. Section 201–8.105–37 is revised to read as follows:

§ 201–8.105–37 FIPS PUB 111, Storage Module Interfaces (With Extensions for Enhanced Storage Module Interfaces).

(a) FIPS PUB 111 defines the mechanical, electrical, and functional requirements for attaching disk drives to their control unit. This resulting interface will facilitate the interconnection of disk drives and the control unit, as part of a storage module subsystem. It provides a common interface specification for both controller and disk subsystems that are employed with small to medium sized computer systems. These systems are generally excluded from the provisions of FIPS PUBS 60–2, 61–1, 63–1, and 97. Its use is particularly encouraged with small computer systems which are excluded from having to conform to those FIPS PUBS.

(b) This standard adopts American National Standard X3.91M–1982, Storage Module Interfaces, for the acquisition of magnetic disk drives or magnetic disk subsystems and may be used as an alternative to FIPS PUBS 60–2, 61–1, and either 63–1 or FIPS PUB 97 for those instances when FIPS PUB 60–2 would otherwise be applicable. When FIPS PUB 111 is employed, FIPS PUB 60–2 need not be used. However, any waiver of FIPS PUB 60–2 is also a waiver of FIPS PUB 111. Waivers from this standard are not required when FIPS PUB 60–2 does not apply.

(c) While it is not economical or practical to require extensive verification of storage module drive (SMD) products offered to the Government, procuring agencies may, at their option, require that correct operation of all interfaces conforming to FIPS PUB 111 be verified through demonstration or other means acceptable to the Government before accepting the applicable equipment. In special cases, NBS may assist agencies in evaluating conformance to the SMD interface. Arrangements for verification assistance can be made by contacting the Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899.

(d) The standard terminology for use in requirements documents including solicitations, is:

Storage Module Interfaces (With Extensions for Enhanced Storage Module Interfaces)

(DEC 86 FIRMR)

Unless a waiver is granted following the waiver procedures specified in FIPS PUB 111, or unless this requirement requires conformance with FIPS PUB 60–2, ADP systems and disk storage subsystems that may result from this requirement must conform to FIPS PUB 111. At the option of the Government, the correct operation of these systems' conforming interfaces must be verified before the acceptance of all applicable ADP equipment.

(End of requirement statement)

8. Section 201–8.105–38 is added to read as follows:

§ 201–8.105–38 FIPS PUB 114, 200 mm (8 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 6631 bprad on One Side—1.9 tpmm (48 tpi) for Information Interchange.

(a) FIPS PUB 114 prescribes a set of physical track format specifications for single-sided, single-density, 200 mm (8 in) flexible disk cartridges with a data density of 6631 bits per radian (bprad) and 77 tracks at a track density of 1.9 tracks per millimeter (tpmm) (48 tracks per inch (tpi)). The track format specifications contained in this standard are only for one type of flexible disk cartridge recording technology. Other FIPS PUBS specify physical track formats for other major types of flexible disk cartridge recording technology.

(b) FIPS PUB 118 specifies the labelling and file structure specifications for use with the flexible disk cartridge covered by this standard and the standard terminology for FIPS PUB 118 should also be included with the standard terminology for FIPS PUB 114 to aid in ensuring data file interchange.

(c) The standard terminology for use in requirements documents, including solicitations, is:

200 mm (8 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 6631 bprad on One Side—1.9 tpmm (48 tpi) for Information Interchange

(DEC 86 FIRMR)

All recording and reproducing equipment employing 200 mm (8 in) flexible disk cartridges with two-frequency recording at 6631 bprad on one side and 77 tracks at a track density of 1.9 tpmm (48 tpi), including associated software, shall provide the capability to accept and generate recorded flexible disk cartridges in compliance with the requirements set forth in FIPS PUB 114.

(End of requirement statement)

9. Section 201–8.105–39 is added to read as follows:

§ 201–8.105–39 FIPS PUB 115, 200 mm (8 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 13262 bprad on Two Sides—1.9 tpmm (48 tpi) for Information Interchange.

(a) FIPS PUB 115 prescribes a set of physical track format specifications for two-sided, double-density, 200 mm (8 in) flexible disk cartridges with a data density of 13262 bits per radian (bprad) and 77 tracks at a track density of 1.9 tracks per millimeter (tpmm) (48 tracks

per inch (tpi)). The track format specifications contained in this standard are only for one type of flexible disk cartridge recording technology. Other FIPS PUBS specify physical track formats for other major types of flexible disk cartridge recording technology.

(b) FIPS PUB 118 specifies the labelling and file structure specifications for use with the flexible disk cartridge covered by this standard and the standard terminology for FIPS PUB 118 should also be included with the standard terminology for FIPS PUB 115 to aid in ensuring data file interchange.

(c) The standard terminology for use in requirements documents, including solicitations, is:

200 mm (8 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 13262 bprad on Two Sides—1.9 tpmm (48 tpi) for Information Interchange

(DEC 86 FIRMR)

All recording and reproducing equipment employing 200 mm (8 in) flexible disk cartridges with modified frequency modulation recording at 13262 bprad on two sides and 77 tracks at a track density of 1.9 tpmm (48 tpi), including associated software, shall provide the capability to accept and generate recorded flexible disk cartridges in compliance with the requirements set forth in FIPS PUB 115.

(End of requirement statement)

10. Section 201–8.105–40 is added to read as follows:

§ 201–8.105–40 FIPS PUB 116, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 3979 bprad on One Side—1.9 tpmm (48 tpi) for Information Interchange.

(a) FIPS PUB 116 prescribes a set of physical track format specifications for single-sided, single-density, 130 mm (5.25 in) flexible disk cartridges with a data density of 3979 bits per radian (bprad) and 35 tracks at a track density of 1.9 tracks per millimeter (tpmm) (48 tracks per inch (tpi)). The track format specifications contained in this standard are only for one type of flexible disk cartridge recording technology. Other FIPS PUBS specify physical track formats for other major types of flexible disk cartridge recording technology.

(b) FIPS PUB 118 specifies the labelling and file structure specifications for use with the flexible disk cartridge covered by this standard and the standard terminology for FIPS PUB 118 should also be included with the standard terminology for FIPS PUB 116 to aid in ensuring data file interchange.

(c) The standard terminology for use in requirements documents, including solicitations, is:

130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 3979 bprad on One Side—1.9 tpmm (48 tpi) for Information Interchange

(DEC 86 FIRMR)

All recording and reproducing equipment employing 130 mm (5.25 in) flexible disk cartridges with two-frequency recording at 3979 bprad on one side and 35 tracks at a track density of 1.9 tpmm (48 tpi), including associated software, shall provide the capability to accept and generate recorded flexible disk cartridges in compliance with the requirements set forth in FIPS PUB 116.

(End of requirement statement)

11. Section 201–8.105–41 is added to read as follows:

§ 201–8.105–41 FIPS PUB 117, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 7958 bprad on Two Sides—1.9 tpmm (48 tpi) for Information Interchange.

(a) FIPS PUB 117 prescribes a set of physical track format specifications for two-sided, double-density, 130 mm (5.25 in) flexible disk cartridges with a data density of 7958 bits per radian (bprad) and 40 tracks at a track density of 1.9 tracks per millimeter (tpmm) (48 tracks per inch (tpi)). The track format specifications contained in this standard are only for one type of flexible disk cartridge recording technology. Other FIPS PUBS specify physical track formats for other major types of flexible disk cartridge recording technology.

(b) FIPS PUB 118 specifies the labelling and file structure specifications for use with the flexible disk cartridge covered by this standard and the standard terminology for FIPS PUB 118 should also be included with the standard terminology for FIPS PUB 117 to aid in ensuring data file interchange.

(c) The standard terminology for use in requirements documents, including solicitations, is:

130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 7958 bprad on Two Sides—1.9 tpmm (48 tpi) for Information Interchange

(DEC 86 FIRMR)

All recording and reproducing equipment employing 130 mm (5.25 in) flexible disk cartridges with modified frequency modulation recording at 7958 bprad on two sides and 40 tracks at a track density of 1.9 tpmm (48 tpi), including associated software, shall provide the capability to accept and generate recorded flexible disk cartridges in compliance with the requirements set forth in FIPS PUB 117.

(End of requirement statement)

12. Section 201–8.105–42 is added to read as follows:

§ 201–8.105–42 FIPS PUB 118, Flexible Disk Cartridge Labelling and File Structure for Information Interchange.

(a) FIPS PUB 118 prescribes a set of logical track format specifications for use with those flexible disk cartridges described in FIPS PUBS 114, 115, 116, and 117. The standard terminology for FIPS PUB 118 should be cited along with the standard terminology for FIPS PUBS 114, 115, 116, and 117 as applicable to aid in ensuring that interchange of data files among information processing systems is reliable.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Flexible Disk Cartridge Labelling and File Structure for Information Interchange

(DEC 86 FIRMR)

All recording and reproducing equipment and systems employing flexible disk cartridges described by FIPS PUBS 114, 115, 116, and 117, including associated software, shall provide the capability to accept and generate recorded flexible disk cartridges in compliance with the requirements set forth in FIPS PUB 118.

(End of requirement statement)

13. Section 201–8.107 is revised to read as follows:

§ 201–8.107 Federal Information Processing Standards (FIPS) programming languages requirement statements.

(a) Whenever a Federal agency has a requirement for a programming language for which a FIPS PUB has been issued, the provisions of the related subsection of this section shall apply unless a waiver from the procurement of a compiler for that language has been approved by the agency head. In addition, in the absence of a waiver, agencies shall ascertain that the compiler meets the requirements of the applicable FIPS programming language in accordance with FIRMR § 201–8.109.

(b) The National Bureau of Standards provides instructions for obtaining interpretations of FIPS programming languages in each such FIPS. Instructions in each FIPS should be followed when an interpretation for that FIPS is required. General questions concerning interpretations should be addressed to:

Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Md. 20899–0999

14. Section 201–8.107–1 is revised to read as follows:

§ 201–8.107–1 FIPS PUB 21–2, COBOL.

(a) FIPS PUB 21–2 specifies the use of American National Standard

Programming Language COBOL, X3.23-1985, as a FIPS.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of COBOL Language Compilers

(DEC 86 FIRMR)

COBOL compilers offered as a result of the requirements of which this is a part shall conform to the requirements in COBOL (FIPS PUB 21-2) and shall implement all of the language elements of the level of COBOL specified elsewhere in this requirements document [insert reference] as well as any additional language elements specified elsewhere in this document [insert reference].

(End of requirement statement)

15. Section 201-8.107-2 is revised to read as follows:

§ 201-8.107-2 FIPS PUB 68-1, Minimal BASIC.

(a) FIPS PUB 68-1 specifies the use of American National Standard Minimal BASIC, X3.60-1978, as a FIPS.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of BASIC Language Compilers

(DEC 86 FIRMR)

BASIC compilers offered as a result of the requirements of which this is a part shall implement Minimal BASIC (FIPS PUB 68-1), as well as any additional language elements as specified elsewhere in this requirements document [insert reference here].

(End of requirement statement)

16. Section 201-8.107-3 is recaptioned and revised to read as follows:

§ 201-8.107-3 FIPS PUB 69-1, FORTRAN.

(a) FIPS PUB 69-1 specifies the use of American National Standard Programming Language FORTRAN, X3.9-1978, as a FIPS.

(b) The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of FORTRAN Language Compilers

(DEC 86 FIRMR)

FORTRAN compilers offered as a result of the requirements of which this is a part shall conform to the requirements in FORTRAN (FIPS PUB 69-1) and shall implement all of the language elements of the level of FORTRAN specified elsewhere in this requirements document [insert reference here], and shall require validation in accordance with FIRMR § 201-8.109, as well as any additional language elements as specified elsewhere in this document [insert reference here].

(End of requirement statement)

17. Section 201-8.107-4 is added to read as follows:

§ 201-8.107-4 FIPS PUB 109, Pascal.

FIPS PUB 109 specifies the use of American National Standard Pascal, ANSI/IEE770X3.97-1983, as a FIPS. The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of Pascal Language Compilers

(DEC 86 FIRMR)

Pascal compilers offered as a result of the requirements of which this is a part shall implement Pascal (FIPS PUB 109) and shall require validation in accordance with FIRMR § 201-8.109, as well as any additional language elements as specified elsewhere in this requirements document [insert reference here].

(End of requirements statement)

18. Section 201-8.107-5 is added to read as follows:

§ 201-8.107-5 FIPS PUB 119, Ada.

FIPS PUB 119 specifies the use of American National Standard Reference Manual for the Ada Programming Language, ANSI/MIL-STD-1815A-1983, as a FIPS. The standard terminology for use in requirements documents, including solicitations, is:

Acquisition of Ada Language Compilers

(DEC 86 FIRMR)

Ada compilers offered as a result of the requirements of which this is a part shall implement all of the language features of Ada (FIPS PUB 119) and shall require validation in accordance with FIRMR § 201-8.109. (NOTE.—Ada is a registered trademark of the U.S. Government, Ada Joint Program Office. All users of this standard are encouraged to contact the Ada Joint Program Office, Department of Defense, OUSD (R&E), Washington, DC 20301.)

(End of requirements statement)

19. Section 201-8.108 is revised to read as follows:

§ 201-8.108 Applications standards requirement statements.

This section provides standard terminology for use in requirements documents, including solicitations, for FIPS PUBS which have been implemented by GSA in the areas of standardization listed in § 201-8.103-3.

20. Section 201-8.108-1 is added to read as follows:

§ 201-8.108-1 Development or acquisition of application programs.

(a) Requirements documents for the development or acquisition of application programs shall specify the use of FIPS programming languages unless the agency determines under procedures established by its Senior Official designated under the Paperwork Reduction Act of 1980 (see 44 U.S.C. 3506(b)) that the purpose of economy and efficiency in the use of ADP will not be served through the use of a FIPS.

(b) The standard terminology for use in requirements documents, including solicitations, when application programs are to be developed or acquired using FIPS programming languages is:

Development or Acquisition of Application Programs

(DEC 86 FIRMR)

When computer application programs are developed or acquired as a result of the requirements of which this is a part, and one of the FIPS programming languages is specified elsewhere in this requirements document [insert reference here], only the language elements of that FIPS, as well as any additional language elements as specified elsewhere in this document [insert reference] shall be used. In these cases, compilers used in developing such programs shall be validated in accordance with FIRMR § 201-8.109.

(End of requirements statement)

21. Section 201-8.109 is revised to read as follows:

§ 201-8.109 Validation of compilers.

(a) The party offering a compiler asserted to conform to one of the FIPS languages shall be responsible for securing validation of the compiler when it is offered to the Government for purchase, lease, or use in connection with ADP services. The party offering application programs written in one of the FIPS languages shall be responsible for securing validation of the compiler used in developing such programs when the programs are offered to the Government for purchase, lease, or use in connection with ADP services.

(b) A compiler, which is offered or used by vendors as a result of requirements set forth by Federal agencies in requirements documents, including solicitations, shall meet the language elements of the designated FIPS PUB. To confirm that the specifications of the designated FIPS have been met, separate Compiler Validation System (CVS) routines (compiler test cases) for each FIPS language have been developed and approved for use. A list of approved CVS's is maintained by the Institute for Computer Sciences and Technology (ICST) at the National Bureau of Standards' (NBS) located in Building 225, Room A266 at Gaithersburg, MD.

(c) Federal agencies shall use the test results from the CVS to confirm that the compiler meets the language specifications of that FIPS. When an agency has indicated in a requirements document that a waiver applies to a FIPS language specification, only the portions of the language that have been

waived are excluded from the validation requirements.

(d) The ICST will provide for compiler validations, as specified in the Compiler Testing Procedures. Validations normally shall be conducted annually. Extension of the effective dates of a previous validation may be authorized in place of a new validation (at the discretion of the ICST) if no errors were identified during the previous validation and if no change has been made to the compiler, its supporting system software, or the CVS in the interim.

(e) The requestor is responsible for providing the test facilities necessary to perform the validation. A validation test using the appropriate CVS is conducted and a Validation Summary Report is produced summarizing the test results. If the validation results warrant, a Certificate of Validation is issued by the ICST.

(f) Validation is performed on a cost-reimbursable basis. The ICST will send the requestor an estimate of validation cost that must be approved before beginning the validation process.

(g) Unresolved questions and/or any ambiguities resulting from the validation process shall be referred to NBS for resolution in accordance with FIPS PUB 29–1, Interpretation Procedures for Federal Information Processing Standard Languages.

(h) Requests for, and questions on, validation services should be addressed to:

Director, Institute for Computer Sciences and Technology, Attention: Validation Service, National Bureau of Standards, Gaithersburg, MD 20899, Telephone: (301) 975–3247 or FTS, 975–3247

(i) When an agency determines that the nature of the requirement is such that a compiler may be offered that has not yet been validated, the requirement statement in paragraph (j) of this section shall be included in requirements documents, including solicitations. This alternative allows a vendor to be responsive to the document if a request for validation of the offered compiler has been made. However, if an agency determines that it is essential for a compiler to be validated before being offered, such as a requirement for a validated compiler for performance evaluation or benchmarking, the alternative requirement statement in paragraph (k) of this section, shall be included in the document. This latter alternative may tend to restrict competition.

(j) The standard terminology for use in requirements documents, including solicitations, when allowing delayed validation is:

Delayed Validation of Compilers

(DEC 86 FIRMR)

In addition to the compiler requirements specified elsewhere in this requirements document, all compilers for FIPS programming languages brought into the Federal inventory as a result of this document and those compilers used by vendors to develop programs or provide services shall be tested using the official Compiler Validation System (CVS). Validation shall be in accordance with FIRMR § 201–8.109.

The results of the validation shall be used to confirm that the compiler meets the requirements of the applicable FIPS specified elsewhere in this document. To be considered responsive, the offeror shall:

(1) Certify in the offer that all FIPS programming language compilers offered in response to this document have been submitted for validation or have been previously validated and listed in the latest Institute for Computer Sciences and Technology (ICST) Certified Compiler List as set forth in § 201–8.109. Proof of current validation will be provided in the form of a Certificate of Validation from the ICST. Unless specified elsewhere in the requirements document, proof of submission for validation will be in the form of a letter from the ICST scheduling the validation.

(2) Agree to correct all deviations from the applicable FIPS reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless otherwise specified elsewhere in this document. If an interpretation of the FIPS is required that will invoke the procedures set forth in FIPS PUB 29–1, such a request for interpretation shall be made within 30 calendar days after contract award. Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29–1 shall be completed within 12 months of the date of formal notification to the contractor of the approval of the interpretation. Proof of correction in either case will be in the form of a Certificate of Validation from the ICST for the corrected compiler. Failure to make required corrections within the time limits set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver the operating system or other software shall apply.

(End of requirement statement)

(k) The standard terminology for use in requirements documents, including solicitations, when requiring prior validation is:

Prior Validation of Compilers

(DEC 86 FIRMR)

In addition to the compiler requirements specified elsewhere in this requirements document, all compilers for FIPS programming languages brought into the Federal inventory as a result of this document and those compilers used by vendors to develop programs or provide services shall have been tested using the official Compiler Validation System (CVS). Validation shall be in accordance with FIRMR § 201–8.109.

The results of the validation shall be used to confirm that the compiler meets the requirements of the applicable FIPS specified elsewhere in this document. To be considered responsive, the offeror shall:

(1) Certify in the offer that all FIPS programming language compilers offered in response to this document have been previously validated as set forth in § 201–8.109 and listed in the latest Institute for Computer Sciences and Technology (ICST) Certified Compiler List. Proof of current validation will be provided in the form of a Certificate of Validation from the ICST.

(2) Agree to correct all deviations from the applicable FIPS reflected in the Validation Summary Report (VSR) not previously covered by a waiver. All deviations must be corrected within 12 months from the date of contract award unless otherwise specified elsewhere in this document. If an interpretation of the FIPS is required that will invoke the procedures set forth in FIPS PUB 29–1, such a request for interpretation shall be made within 30 calendar days after contract award. Any corrections that are required as a result of decisions made under the procedures of FIPS PUB 29–1 shall be completed within 12 months of the date of formal notification to the contractor of the approval of the interpretation. Proof of correction in either case will be in the form of a Certificate of Validation from the ICST for the corrected compiler. Failure to make required corrections within the time limits set forth above shall be deemed a failure to deliver required software. The liquidated damages as specified for failure to deliver the operating system or other software shall apply.

(End of requirement statement)

(l) If the party offering the compiler is an activity of the U.S. Government, the Federal agency shall be responsible for securing the validation of the compiler in accordance with this § 201–8.109.

22. Section 201–8.110–1 is amended to add FIPS PUB 104–1 as follows:

§ 201–8.110–1 FIPS PUBS applicable to the interchange of machine processable data between and among agencies.

(a) * * *

(b) The standard terminology for use in requirements documents, including solicitations, is:

Interchange of Machine Processable Data

(DEC 86 FIRMR)

All application programs resulting from this requirement that have been identified as those that will be interchanged, or that will record data that will be interchanged with Federal agencies, State and local governments, industry, and the public must implement the following applicable approved Federal Information Processing Standards (FIPS):

FIPS PUB 4, Calendar Date.

FIPS PUB 5-1, States and Outlying Areas of the United States.

FIPS PUB 6-3, Counties and County Equivalents of the States of the United States and the District of Columbia.

FIPS PUB 8-5, Metropolitan Statistical Areas (Including CMSAs, PMSAs and NECMAs).

FIPS PUB 9, Congressional Districts of the United States.

FIPS PUB 10-3, Countries, Dependencies, Areas of Special Sovereignty, and Their Principal Administrative Divisions.

FIPS PUB 58, Representations of Local Time of the Day for Information Interchange.

FIPS PUB 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange.

FIPS PUB 66, Standard Industrial Classification (SIC) Codes.

FIPS PUB 70-1, Representation of Geographic Point Locations for Information Interchange.

FIPS PUB 95, Code for the Identification of Federal and Federally-Assisted Organizations.

FIPS PUB 103, Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas.

FIPS PUB 104-1, Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange.

(End of requirement statement)

23. Section 201-8.111 is revised to read as follows:

§ 201-8.111 ADP operation standards requirement statements.

This section provides requirement statements for use in requirements documents, including solicitations, for FIPS PUBS which have been implemented by GSA in the area of standardization listed in § 201-8.103-5.

24. Section 201-8.111-1 is added to read as follows:

§ 201-8.111-1 FIPS PUB 46, Data Encryption Standard (DES).

(a) FIPS PUB 46 specifies an algorithm to be implemented in computer or related data communication devices using hardware (not software) technology. This standard shall be used by Federal agencies for the cryptographic protection of computer data when:

(1) A department or agency decides that cryptographic protection is required; and

(2) The data are not classified according to the National Security Act of 1947, as amended; or the Atomic Energy Act of 1954, as amended.

(b) Federal agencies using cryptographic devices for protecting data classified according to either the National Security Act or the Atomic Energy Act may use these devices for protecting unclassified data in lieu of the standard.

(c) Technical specifications are included with FIPS PUB 46.

(d) The standard terminology for use in requirements documents, including solicitations, is:

Data Encryption

(DEC 86 FIRMR)

When an unclassified data encryption requirement is specified elsewhere in this requirement, such encryption will be accomplished in accordance with FIPS PUB 46. Implementations of the standard embodied in products or services offered as a result of this requirement that are asserted to have an encryption capability in conformance with FIPS PUB 46 must have the capability validated by the National Bureau of Standards prior to being proposed. Arrangements for validation may be made with the Systems Component Division, National Bureau of Standards, Institute for Computer Science and Technology, Gaithersburg, MD 20899-0999.

(End of requirement statement)

(e) FED-STD 1027, General Security Requirements for Equipment Using the Data Encryption Standard (§ 201-8.112-13), contains security requirements in telecommunications equipment and systems used by the U.S. Government when a need exists for encryption of unclassified information during transmission using the Data Encryption Standard (DES) algorithm described in FIPS PUB 46.

(f) The following documents provide additional information in this regard: FIPS PUB 31, Guidelines for ADP Physical Security and Risk Management; FIPS PUB 39, Glossary for Computer Systems Security; FIPS PUB 41, Computer Security Guidelines for Implementing the Privacy Act of 1974; FIPS PUB 65, Guidelines for ADP Risk Analysis; FIPS PUB 73, Guidelines for Security of Computer Applications; FIPS PUB 74, Guidelines for Implementing and Using the NBS Data Encryption Standard; FIPS PUB 83, Guideline on User Authentication Techniques for Computer Network Access Control; FIPS PUB 87, Guidelines for ADP Contingency Planning; and FIPS PUB 102, Guideline for Computer Security Certification and Accreditation.

25. Section 201-8.111-2 is added to read as follows:

§ 201-8.111-2 FIPS PUB 81, Data Encryption Standard (DES) Modes of Operations.

(a) FIPS PUB 81 defines four modes of operation that shall be used with the Data Encryption Standard (DES) described in FIPS PUB 46. These modes specify how sensitive computer data will be encrypted (cryptographically protected) and decrypted (returned to original form). This standard shall be used by Federal agencies when acquiring equipment or services that implement the DES in accordance with the provisions of § 201-8.105-15(a).

(b) FIPS PUB 81 specifies the recommended modes of operation for the DES but does not contain requirements for their secure implementation in particular applications. This standard anticipates the development of a set of application standards to achieve this objective.

(c) The standard terminology for use in requirements documents, including solicitations, issued on or after the effective date of FIPS PUB 81 is:

Modes of Operation—Data Encryption

(APR 84 FIRMR)

Equipment and services offered as a result of this requirement that implement the Data Encryption Standard (FIPS PUB 46) and that are intended for use in the cryptographic protection of sensitive but unclassified computer data, shall use one or more of the modes of operation specified in FIPS PUB 81.

(End of requirement statement)

26. Section 201-8.111-3 is added to read as follows:

§ 201-8.111-3 FIPS PUB 112, Password Usage.

(a) FIPS PUB 112 specifies basic criteria for two different uses of passwords in an ADP system: personal identity authentication and data access authorization. The standard does not require the use of passwords in an ADP system for either purpose, but establishes the criteria for the design, implementation, and use of a password system in those systems where passwords are used. When passwords are used, they should be used in accordance with the standard.

(b) The agency's designated security officer is responsible for the security of a computer system, and shall specify any additional security criteria for a computer system over and above the criteria in the standard. The security officer shall prepare a Password Usage Compliance Document, as set forth in FIPS PUB 112, for each system requiring the use of a password system. The use of cryptography to generate or transmit passwords for access to, or authentication of, classified information requires prior review and approval of the National Security Agency.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Computer Systems Password Usage

(DEC 86 FIRMR)

If a requirement is set forth elsewhere in this requirements document for the use of passwords to authenticate users of an ADP

system or to authorize access to data in the system, the systems, equipment, and/or services provided to satisfy that requirement must be in conformance with FIPS PUB 112.
(End of requirement statement)

27. Section 201–8.111–4 is added to read as follows:

§ 201–8.111–4 FIPS PUB 113, Computer Data Authentication.

(a) FIPS PUB 113 specifies a Data Authentication Algorithm (DAA) which may be used to detect unauthorized modifications of data both intentional and accidental. The standard is based on the algorithm specified in FIPS PUB 46, (Data Encryption Standard) and is compatible with both the Department of the Treasury's Electronic Funds and Security Transfer Policy and the ANSI Standard for Financial Institution Message Authentication, ANSI X9.9–1982.

(b) FIPS PUB 113 shall be used by Federal organizations whenever a determination is made that cryptographic authentication is needed for the detection of intentional modifications of data, unless the data is classified according to the National Security Act of 1947, as amended, or the Atomic Energy Act of 1954, as amended. Equipment approved for the cryptographic authentication of classified data may be used in lieu of equipment meeting this standard. Approval of a waiver is not required in this case; however, the authorizing agency official shall determine that the alternative cryptographic authentication system used for classified data and being substituted for the provisions of FIPS PUB 113 performs at least as well as those specified in this standard.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Computer Data Authentication
(DEC 86 FIRMR)

If a requirement is set forth elsewhere in this requirements document that cryptographic authentication is required for the detection of unauthorized modification of data and that data is not classified according to the National Security Act of 1947, as amended, or the Atomic Energy Act of 1954, as amended, the systems, equipment, and/or services provided to satisfy this requirement must be in compliance with FIPS PUB 113.

If, as the result of requirements set forth elsewhere in this requirements document, a separate capability is offered to provide cryptographic authentication for the detection of unauthorized modification of data classified according to the National Security Act of 1947, as amended, or the Atomic Energy Act of 1954, as amended, and this separate capability is also to be used for the detection of unauthorized modification of unclassified data, the systems, equipment, and/or services provided to satisfy that requirement must perform as comprehensively as those specified in FIPS PUB 113.
(End of requirement statement)

28. Section 201–8.112–17 is added to read as follows:

§ 201–8.112–17 FED STD 1033, Telecommunications: Data Communication Systems and Services—User-Oriented Performance Parameters.

(a) FED–STD 1033 adopts American National Standard ANSI X3.102–1983 that defines 21 data communication performance parameters that are applicable to all classes of data communication systems independent of topology, protocol, code, or other design characteristics. The standard establishes a uniform means of specifying, assessing and comparing the performance of data communication systems and services.

(b) FED STD 1033 shall be used by all Federal departments and agencies in specifying the performance of data communication systems and services as perceived by end users. User specifications may define values either for all ANSI X3.102–1983 parameters or for a subset determined by the user application and the expected system or service characteristics. Use of the standard in performance measurement is not required in applications where the expected cost of measuring the parameter values exceeds the expected benefits.

(c) The standard terminology for use in requirements documents, including solicitations, is:

Applicability of FED–STD 1033
(DEC 86 FIRMR)

Performance specifications and equipment, systems, and services acquired to measure, evaluate, or monitor systems performance based on the parameters specified elsewhere in this requirements document [insert reference here] shall comply with FED–STD 1033.
(End of requirement statement)

PART 201–11—COMPETITION

1. The authority citation for the part is revised to read as follows:

Authority: Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486(c) and Sec. 101(f), 100 Stat. 2128; 40 U.S.C. 751(f).

2. Section 201–11.002–1 is amended by revising the introductory statement in paragraph (b) to read as follows:

§ 201–11.002–1 Use and documentation of specific make and model specifications.

* * * * *

(b) The use of a specific make and model specification is considered to be other than full and open competition and must be certified, justified, and approved in accordance with FAR 6.303 and 6.304, notwithstanding the existence of more than one responsible source. The identification of the statutory authority permitting other than full and open competition is required to be included in the justification (see FAR 6.303–2(a)(4)). For these information resources acquisitions, the statutory authority citation is: 40 U.S.C. 759(g), as amended by Pub. L. 99–500.

* * * * *

PART 201–30—MANAGEMENT OF ADP RESOURCES

1. The table of contents of Part 201–30 is amended by reserving § 201–30.018–3, adding an entry for § 201–30.019; and the authority citation for the part is revised to read as follows:

Sec.
201–30.018–3 [Reserved]
201–30.019 Compiler validation testing.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c) and Sec. 101(f), 100 Stat. 2128; 40 U.S.C. 751(f).

2. Section 201–30.018–3 is removed and reserved to read as follows:

§ 201–30.018–3 [Reserved]

3. Section 201–30.019 is added as follows:

§ 201–30.019 Compiler validation testing.

The Institute for Computer Sciences and Technology (ICST) of the National Bureau of Standards validates compilers which are acquired by the Federal Government, utilized in the performance of ADP services for the Federal Government, or are used to develop computer programs for the Federal Government. The validation tests determine whether the compiler being tested implements the elements of the Federal processing standard language to which the compiler relates (see § 201–8.109). Agencies should contact the ICST for further information, telephone (301) 975–3247 or FTS, 975–3247. Address: National Bureau of Standards, Institute for Computer Sciences and Technology, Software Standards Validation Group, Building 225, Room A266, Gaithersburg, MD 20899.

PART 201–34—ADP SUPPORTING ACTIVITIES

1. The table of contents of Part 201–34 is amended by revising § 201–34.003; and the authority citation for the part is revised to read as follows:

§ 201-34.003 Compiler validation testing.

Authority: Sec. 205 (c), 63 Stat. 390; 40 U.S.C. 486(c) and Sec. 101(f), 100 Stat. 2128; 40 U.S.C. 751(f).

2. Section 201-34.003 is revised as follows:

§ 201-34.003 Compiler validation testing.

(a) The Institute for Computer Sciences and Technology (ICST) of the National Bureau of Standards validates compilers which are acquired by the Federal Government, utilized in the performance of ADP services for the Federal Government, or used to develop computer programs for the Federal Government.

(b) On behalf of Federal agencies, vendors, and the public, the ICST publishes a quarterly Certified Compiler List of those compilers that are currently validated for Federal processing standard languages. The latest list may be obtained by contacting the ICST at (301) 975-3247 or FTS, 975-3247.

(c) Section 201-8.109 provides guidance relative to compiler validation policies and procedures. Section 201-30.019 reminds Federal ADP resource managers of the need for compiler validation.

Dated: March 9, 1987.

T.C. Golden,

Administrator of General Services.

[FR Doc. 87-6835 Filed 3-27-87; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 121, 122, and 123

National Guidelines for Health Planning; Health Systems Agencies; State Health Planning and Development Agencies

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: This rule rescinds Parts 121, 122, and 123 of Title 42 Code of Federal Regulations. These three Parts are rendered obsolete by Pub. L. 99-660 which repeals Title XV of the Public Health Service Act, effective January 1, 1987. Provisions of the Hollings Amendment which govern the expenditure of health planning carryover funds will remain in effect through September 30, 1987. Section 701 (b) of Pub. L. 99-660 indicates congressional intent that the "Hollings Amendment" continue to have effect, notwithstanding the repeal of Title XV. Grantees operating under the terms of the "Hollings Amendment" will continue to be governed by the regulations in effect at the time the grants were awarded.

EFFECTIVE DATE: Rescission is effective on March 30, 1987.

ADDRESS: Bureau of Resources Development, 5600 Fishers Lane, Room 8A-52, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Dr. Roger McClung, (301) 443-4273.

List of Subjects in 42 CFR Parts 121, 122, and 123

Health planning, Health care.

Accordingly, the Assistant Secretary for Health of the Department of Health and Human Services, with approval of the Secretary, is rescinding 42 CFR Parts 121, 122, and 123.

Dated: February 6, 1987.

Robert E. Windom,

Assistant Secretary for Health.

Approved: March 17, 1987.

Otis R. Bowen,

Secretary.

For the reasons set forth in the preamble, 42 CFR Chapter I, Subchapter K is revised as follows:

1. The heading of 42 CFR Subchapter K is revised to read:

Subchapter K—Health Resources Development

PART 121—[REMOVED]

2. Part 121 is removed.

PART 122—[REMOVED]

3. Part 122 is removed.

PART 123—[REMOVED]

4. Part 123 is removed.

(Pub. L. 99-600, 100 Stat. 3354 et seq.)

[FR Doc. 87-6901 Filed 3-27-87; 8:45 am]

BILLING CODE 4160-15-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6747]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of non-compliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the third column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the

flood map, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) my legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance may of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date [1]
Region I				
Vermont: Johnson, village of, Lamoille County.	500232D	June 10, 1975, Emerg.; Feb. 1, 1979, Reg.; Apr. 3, 1987, Susp.	Apr. 5, 1974, Feb. 1, 1979 and Apr. 3, 1987.	Apr. 3, 1987.
Region II				
New York:				
Essex, town of, Essex County	361149C	Feb. 14, 1977, Emerg.; Apr. 3, 1987, Reg.; Apr. 3, 1987, Susp.	Dec. 20, 1977, Apr. 3, 1987	Do.
Fremont, town of, Sullivan County	360821D	Apr. 11, 1975, Emerg.; May 25, 1984 Reg.; Apr. 3, 1987, Susp.	May 31, 1974, Sept. 19, 1975 and Apr. 3, 1987.	Do.
Puerto Rico: Commonwealth of Puerto Rico.	720000	July 16, 1971, Emerg.; Aug. 15, 1978, Reg.; Apr. 3, 1987, Susp.	Aug. 1, 1978, Aug. 15, 1980, July 2, 1981, July 19, 1982, Sept. 16, 1982, Apr. 3, 1984 and Aug. 5, 1986.	Do.
Region III				
Delaware:				
New Castle, city of, New Castle County.	100026B	June 6, 1970, Emerg.; Dec. 26, 1975, Reg.; Apr. 3, 1987, Susp.	Dec. 26, 1975, July 1, 1974 and Apr. 3, 1987.	Do.
Newport, town of, New Castle County	100054C	May 28, 1974, Emerg.; June 15, 1978, Reg.; Apr. 3, 1987, Susp.	Dec. 20, 1974, June 15, 1978 and Apr. 3, 1987.	Do.
Pennsylvania: Northampton, township of, Somerset County.	422520C	Feb. 10, 1976, Emerg.; Sept. 24, 1984, Reg.; Apr. 3, 1987 Susp.	Jan. 3, 1975, Aug. 22, 1980, Sept. 24, 1984 and Apr. 3, 1987.	Do.
West Virginia: Elkins, city of, Randolph County.	540177D	Nov. 8, 1974, Emerg.; Apr. 3, 1987, Reg.; Apr. 3, 1987, Susp.	Feb. 15, 1974, Apr. 9, 1976 and Apr. 3, 1987.	Do.
Region VI				
Arkansas: Bald Knob, city of, White County	050222D	Sept. 19, 1975 Emerg.; Apr. 3, 1987, Reg.; Apr. 3, 1987, Susp.	Mar. 8, 1974, Jan. 16, 1976 and Apr. 3, 1987.	Do.
Region VII				
Missouri: Miner, village of, Scott County	290687C	July 24, 1975, Emerg.; Dec. 21, 1984, Reg.; Apr. 3, 1987, Susp.	July 30, 1976, Jan. 9, 1979, Dec. 21, 1984 and Apr. 3, 1987.	Do.
Region I—Minimal Conversions				
Maine: Somerville, town of, Lincoln County	230512A	Apr. 25, 1975, Emerg.; Apr. 3, 1987, Reg.; Apr. 3, 1987, Susp.	Apr. 3, 1987	Apr. 3, 1988.
Region VII				
Kansas: Council Grove, city of, Morris County.	200234B	Mar. 7, 1975, Emerg.; Apr. 3, 1987, Reg.; Apr. 3, 1987, Susp.	Dec. 26, 1973, Oct. 31, 1975 and Apr. 3, 1987.	Apr. 3, 1987.

[1] Certain federal assistance no longer available in special flood hazard areas.

Code for reading fifth column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 87–6863 Filed 3–27–87; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 50]

Federal Motor Vehicles Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: Standard No. 208, *Occupant Crash Protection*, provides for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. To encourage the development of a variety of automatic restraint systems, the standard provides that a manufacturer that installs a non-belt automatic restraint system, such as an air bag system, at the driver's seating position and a manual lap/shoulder belt at the front right passenger seating position will receive credit for producing one automatic restraint-equipped passenger car ("one car credit") during the phase-in period.

In response to a petition from the Ford Motor Company, NHTSA proposed amending Standard No. 208, *Occupant Crash Protection*, to extend the current one car credit beyond the phase-in period. Today's final rule amends Standard No. 208 to provide, until September 1, 1993, a one car credit to a manufacturer that produces a car with a non-belt automatic restraint system for the driver and a dynamically-tested manual lap/shoulder belt for the right front passenger.

The limited extension adopted in today's final rule will not affect the requirement that all cars have automatic restraints beginning September 1, 1989. It only means that manufacturers can meet that requirement by installing a non-belt system for the driver position, where almost three-quarters of the front seat fatalities occur, and a dynamically-tested manual lap/shoulder belt for the right front passenger in vehicles that receive a one car credit beyond September 1, 1989.

The agency believes that a several year extension is warranted by the various technical, engineering and supplier resource problems, identified by Ford and other vehicle manufacturers and automatic restraint system suppliers, that currently hinder the widespread installation of full-front (driver and passenger) air bag systems. Today's final rule will encourage the orderly development and production of passenger cars with full-front air bag systems. The agency decided that the availability of the one car credit should be limited to the time necessary to complete the development and installation of passenger side air bag systems, which the agency believes should be September 1, 1993. (Readers are referred to a termination of a rulemaking document concerning the automatic restraint requirements for convertibles published elsewhere in today's **Federal Register**)."

DATES: *Effective dates:* March 30, 1987. This rule effects vehicles manufactured on or after September 1, 1989, and until September 1, 1993. Petitions for reconsideration must be filed with the agency by April 29, 1987.

ADDRESS: Petitions for reconsideration should refer to the docket and notice numbers of this notice and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, National Highway Traffic Safety Administration, Room 5320, NRM-12, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1984 (49 FR 28962), the Department of Transportation announced its decision on occupant crash protection. The decision provided for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. To encourage the development of innovative automatic restraint systems, the July 1984 decision also provided that manufacturers that installed a non-belt automatic restraint system, such as an air bag system, for the driver and any type of automatic restraint for the right front passenger during the phase-in period, would receive credit for producing 1.5 automatic restraint-equipped vehicles. The decision also provided that if two-thirds of the population of the United States were covered by effective safety belt use laws, which meet certain minimum requirements, by April 1, 1989, then the automatic restraint requirement would be rescinded. Subsequently, on August 30, 1985 (50 FR 35233), NHTSA adopted an amendment providing a new one car credit (versus a 1.5 car credit) for a driver-only, non-belt system to encourage the early introduction of those systems.

On November 25, 1986 (51 FR 42598), in response to a petition for rulemaking from Ford Motor Co., NHTSA proposed to amend Standard No. 208 to continue temporarily the one car credit for driver-only, non-belt automatic restraint systems after September 1, 1989. The notice also proposed that the manual lap/shoulder safety belt installed for the right front passenger seat in those vehicles would have to pass the requirements of Standard No. 208 in a 30 mph frontal barrier test.

After evaluating the issues raised by the commenters, NHTSA has decided to adopt the proposed amendments. The information provided by vehicle manufacturers and automatic restraint system suppliers, which is discussed in detail below, shows that adoption of a limited extension will promote the widespread introduction of non-belt automatic restraint systems, such as air bags, for both the driver and the passenger. That information provided by the commenters shows that there are a number of technical issues that still need to be resolved before widespread installation of passenger-side air bag systems will occur. In addition, there is a need for additional time for suppliers to increase their production capabilities for both driver and passenger air bag systems.

The limited extension adopted today will provide the additional time to resolve those technical and supply issues. NHTSA emphasizes that adoption of today's amendments does not change the fundamental requirement of Standard No. 208 that all passenger cars must have automatic restraints by September 1, 1989. Today's amendment means that manufacturers can meet that requirement by installing a non-belt system for the driver position, where almost three-quarters of the front seat fatalities occur. To provide safety belt-wearing passengers in the front seat of vehicles receiving a one car credit the same level of protection as a passenger in an automatic belt equipped car, the agency has also adopted a requirement that vehicles must pass a 30 mph barrier test in which a test dummy seated at the right front passenger is restrained by a lap/shoulder belt.

Comments on the Proposed Extension

There was widespread support among the commenters for the proposed extension of the one car credit. The commenters favoring the extension represented a wide-range of interests that consisted of:

- restraint systems suppliers (Bendix Safety Restraint Division of Allied/Automotive, Breed Corp., Romeo-Kojyo, Talley Industries, and the TRW Vehicle Safety Division),
- insurance companies and their trade associations (Aetna, American Insurance Association, National Association of Independent Insurers, Nationwide Insurance, State Farm Mutual Automobile Insurance Co. and its outside legal counsel, The Travelers, and United Services Automobile Association),
- research and other organizations and individuals, (Insurance Institute for Highway Safety, National Association of Governors' Highway Safety Representatives, Motor Voters, National Safety Council, New Jersey's Insurance Commissioner, and Professor Susan Baker of the School of Hygiene and Public Health of the Johns Hopkins University),
- vehicle manufacturers and their trade associations (American Motors, Automobile Importers of America, Chrysler, Ford, General Motors, Honda, Jaguar, Mercedes-Benz, Motor Vehicle Manufacturers Association, Nissan, Porsche, Saab, Volkswagen, and Volvo).

The proposed extension was opposed by the Center for Auto Safety and Robert Phelps, a private citizen. The Pennsylvania Department of Transportation's Center for Highway Safety expressed concern about providing protection to passengers in cars equipped with driver-only air bags and urged adoption of a requirement that cars produced beyond September 1, 1989 have automatic safety belts for the right front passenger. Finally, the Massachusetts-based Committee to Repeal the Mandatory Seatbelt Law filed comments asking the agency to reconsider the provision in Standard No. 208 that the automatic restraint requirements will be rescinded if two-thirds of the U.S. population is covered by effective safety belt laws. The issues raised by all of the commenters are discussed below.

Availability of Information

In its comments, the Center for Auto Safety (CFAS) raised questions about whether the public had adequate information about the Ford petition to be able to file meaningful comments. CFAS said that comments could not analyze the leadtime issue raised by Ford because NHTSA "has refused to release the bulk of information filed by Ford in support of its petition." CFAS's statement is not correct. After Ford filed its original petition, NHTSA identified a number of issues that needed further clarification, including the technical problems faced by Ford and the leadtime necessary to provide passenger-side non-belt automatic restraints. As explained in the NPRM for this rule, the agency questioned Ford about these issues and Ford provided the agency with additional information. The "bulk" of all the information provided by Ford in its original petition and its subsequent filings is in the public record. Of the more than 20 pages of information filed by Ford in all of its submissions to the agency on this rulemaking action, only the equivalent of a few short paragraphs have been withheld by the agency as confidential information.

The limited information withheld from the record concerns the specific production volumes and models on which Ford plans to introduce driver-side non-belt automatic restraints. Since this information concerns Ford's future product plans, it is entitled to confidential treatment. The other material in the public docket adequately describes the basis for Ford's petition to allow the public to comment. The agency notes that none of the other commenters to this notice raised any objection about the adequacy of the information available to the public.

CFAS also urged the agency to seek additional information from automatic restraint system suppliers about leadtime and engineering problems. CFAS said that NHTSA should act as the Environmental Protection Agency did in 1975 when EPA obtained additional information from catalytic converter suppliers about efforts by vehicle manufacturers to meet the air pollution standard. According to CFAS, EPA did not grant any claim for confidentiality and required the sworn testimony of suppliers. NHTSA does not believe that such action is necessary. In this case, suppliers of automatic restraint systems representing the majority of the restraint system market have already voluntarily filed comments with the agency on the Ford petition. It is in the economic interest of those suppliers to ensure that passenger-side air bag systems are installed as soon as possible. All of the suppliers supported grant of the Ford petition, saying that providing additional leadtime will ensure the orderly introduction of passenger-side, non-belt automatic restraint systems. NHTSA also notes that Ford, in its latest comments, has provided additional information on its contractual arrangements with its air bag suppliers. Ford said that it "has committed to purchase its planned 1989 and 1990 model year restraint needs from its suppliers, and has authorized expenditures for long lead tooling." Based on the information that is already in the public record, NHTSA does not believe there is any need to take the action suggested by CFAS.

Credit Promotes Orderly Introduction of Air Bags

The commenters supporting adoption of the proposed amendment repeatedly cited the value of the one car credit in promoting the orderly introduction of air bag systems. Commenters noted that the amendment would encourage the installation of air bags for both the driver and the pasenger. For example, in addressing the beneficial effect of the proposed amendment on increasing driver-side air bags, GM said that, "Currently, a manufacturer contemplating airbag technology in the near term must concurrently develop other passenger passive restraint technology if he is to avoid the risk that passenger airbag technology may not be available by the end of the passive restraint phase-in period. With the proposed extension, manufacturers can move forward with the development of driver airbags even though there might be uncertainty regarding the availability of a passenger airbag design by September of 1989." GM also addressed the effect of the proposal on development and installation of passenger-side air bags. It said, as did many of the other commenters, that "(a)dditional development time will greatly increase the potential for an orderly phase-in of passenger airbags. The additional time will enable manufacturers to use technical resources efficiently in addressing passenger airbag performance issues. With this incentive, the prospects for the wider use of passenger airbags in the 1994 time frame will be increased significantly."

In the November 1986 notice, NHTSA noted Ford's plans to install driver-side air bag systems "in the majority of its North American-designed car production" if the proposed extension is adopted. The agency asked manufacturers to provide information on their plans for adopting non-belt systems if the proposed extension of the one car credit was adopted. Two domestic and six foreign manufacturers provided such information in their comments.

Chrysler said that it has re-evaluated its automatic restraint plans, in part because of the agency's proposed extension of the one car credit, and now plans to "install driver air bags in most of our car lines by the 1990 model year." Chrysler emphasized that to meet that goal it is "making the largest commitment of manpower and resources that we have ever made to a single safety program." GM explained that it was engaged in "an on-going review of current and future marketing strategies" and has "every expectation that our review will lead to a significant increase in the use of inflatable restraint technology," if the agency adopts the proposed extension. In its comments, GM said it has two current air bag programs; one to develop an optional air bag for the 1988 model Oldsmobile 88 and another program, the details of which are confidential. GM subsequently filed supplemental information with the agency concerning its automatic restraint plans. GM said that it now plans to produce more than 500,000 driver air bag systems during the 1990 model year. GM also said that it is conducting engineering and resource studies on the feasibility of installing driver-only air bag systems in additional models. It said that, "If these additional programs prove to be feasible and are eventually approved, General Motors' production of driver-air bag equipped vehicles during the 1992 model year could approach 3,000,000."

In its comments, Honda said it planned to introduce driver-side air bags on some models if the credit is extended. Honda has subsequently announced that it will offer a driver-side air bag as an option on one of its Acura models beginning in June 1987. In its comments, Honda also said that it intended to introduce passenger-side air bag systems as soon as the technical problems are solved. Jaguar said that the proposed amendment would allow it to place more effort on its driver and passenger side air bag programs. In response to an inquiry from the agency, both Mercedes-Benz and Porsche indicated that they were proceeding with their passenger-side air bag programs. Saab said that it had a program underway to develop a driver-side air bag in one version of its 900 line and plans to develop driver and passenger air bag systems for both of its car lines. Volvo said that its plans to install a driver side air bag plus a lap/shoulder belt for the right front passenger side on all its cars sold in the U.S. after September 1, 1989, if the one car credit extension is adopted.

In the November 1986 notice, NHTSA also asked manufacturers to comment on whether adoption of the proposed extension would delay the introduction of passenger-side systems. No vehicle manufacturer or restraint system supplier indicated that adoption of the proposal would slow the development of the passenger system. Instead, manufacturers indicated they were moving forward with passenger side programs and extension of the one car credit would assist their efforts. CFAS, however, asserted that adoption of the extension would discourage efforts by Mercedes, Porsche and Jaguar to provide full-front systems. CFAS asked the agency to provide an incentive to the adoption of passenger-side systems by phasing-in an automatic restraint requirement for the passenger side. CFAS's claim that adoption of the proposal would discourage efforts by Mercedes, Porsche, and Jaguar to offer full front air bag systems is contradicted by the comments filed by those companies. All of them supported adoption of the proposal and indicated they were proceeding with their passenger side air bag programs. Porsche is already offering a full-front air bag system on its 1987 model of the 944 Turbo.

Volkswagen urged the agency to base its decision on a policy of promoting a variety of restraint systems. Volkswagen expressed concern that a decision to extend the one car credit should not be seen as the agency favoring a specific restraint system design. Such a position would work to discourage development of innovations in other passive restraint devices, Volkswagen said.

The purpose of today's amendment is not to favor one restraint system design over another. As discussed in the July 1984 final rule adopting the automatic restraint requirement, the purpose of the original 1.5 car credit and the subsequently adopted one car credit is, as Volkswagen suggested, to promote the installation of a variety of automatic restraint systems. The incentive provided by these credits will mean that a range of different automatic restraint systems such as, detachable and non-detachable automatic safety belts, air bags, and potentially, built-in safety or other new technologies, will be available to the consumer. The agency emphasizes that the one car credit extended today is available to any non-belt technology that can meet the performance requirements of the standard. The temporary extension of this credit should further serve to encourage the development of a variety of automatic restraint systems. Ultimately, the type or types of automatic restraints that prevail in the marketplace will be determined by the choices made by consumers.

Technical Issues

The November 1986 notice requested manufacturers to comment on a number of technical issues concerning passenger air bag systems that Ford said needed further study. In their comments, vehicle manufacturers and restraint system suppliers agreed that there are a number of technical issues that need to be resolved. They also said that extension of the one car credit will assist them in solving those technical issues. For example, Breed, GM, Honda, Nissan, and Volvo said that the inflation of an air bag system, particularly for the passenger, must be carefully controlled so as not to create any undue hazard to out-of-position occupants. GM said that it is "hopeful that inflation risks to out-of-position occupants will be solvable given the opportunity to proceed in an orderly manner to gain experience with passenger side airbag technology."

In its comments, Breed, which is an air bag component supplier, said that it did not anticipate technical problems associated with the sensors used to trigger the inflation of a passenger-side air bag. Breed did, however, point out the difficulties associated with developing and producing an inflator for a passenger-side air bag. Breed said "there are no existing passenger side inflators in production at this time. In general, driver side inflators will be almost identical regardless of car models. However, passenger side inflators will have to have substantially different capacities depending on particular car model." Breed also said that the design of the fabric and cover for the air bag are also important technical issues since the proper design of those components can reduce risks to out-of-position occupants.

Volvo and Honda said that additional time is needed to address the noise level associated with a full-front air bag system. The level that occurs when two air bags are inflated is higher than that for one air bag. In addition, the passenger-side bag is larger and thus more gas must be generated to inflate the bag.

Finally, a number of the manufacturers said that installation of passenger-side air bag systems will bring about a number of instrument panel changes that will require additional leadtime to complete. Volvo said that installation of an air bag system in the instrument panel may

mean that the glove compartment will have to be relocated. Honda referred to the need to optimize the design of the knee bolster and match the design and material of the deployment door and instrument panel.

NHTSA emphasizes that, as noted by the commenters, the technical issues identified by Ford and others are solvable, if manufacturers have sufficient time to design and develop approaches to each of the issues. As the commenters also noted, the additional leadtime provided by an extension of the one car credit will assist them in addressing those issues.

Safety Effects

The November 1986 notice and the accompanying preliminary regulatory evaluation contained a detailed discussion of the safety effects of the proposal. The notice discussed three independent analyses, one by NHTSA, and the others by Ford and IIHS, all of which demonstrated that a driver-side, non-belt automatic restraint system combined with a manual lap/shoulder belt for the passenger provides substantial safety benefits. No commenter disagreed with the methodology or conclusions of the different analyses. In supporting the analyses, Volvo noted that the analyses showed that the usage rate for automatic safety belts would have to be at least 60–70 percent to exceed the benefits of a driver-only air bag system. Volvo said that "(i)t appears unlikely that such high usage rates will be achieved for detachable automatic belts, at least initially. Consequently, a continuing 'one car credit' appears to present no negative societal safety effects," Volvo concluded. Since there was no objection to the methodology or conclusions of the agency's analysis, NHTSA has adopted the results of that analysis in its final regulatory evaluation.

Although it did not address the agency's safety analysis, the Pennsylvania Department of Transportation's Center for Highway Safety (CHS) expressed concern about providing protection to passengers in cars equipped with driver-only air bags. It urged adoption of a requirement that cars produced beyond September 1, 1989, have automatic safety belts for the right front passenger. Thus, in effect, CHS urged rejection of the Ford petition since CHS wants automatic protection for both the driver and the passenger after September 1, 1989.

NHTSA shares CHS' concern about protecting both the driver and right front passenger. Before proposing an extension of the one car credit, NHTSA carefully examined the safety effects of the proposal, including the effect on front seat passengers. Both the agency's preliminary and now the final regulatory evaluation show that a driver-only air bag system can have substantial safety benefits. In fact, safety belt usage in cars equipped with automatic safety belts for the driver and the passenger must exceed 60 percent, before the benefits of that system equal the benefits of a driver-only air bag and a manual lap/shoulder belt for the right front passenger.

As discussed in more detail in the section of this preamble on leadtime, the information provided by the manufacturers shows conducting simultaneous engineering programs to develop two different types of automatic restraints for the same seating position is difficult to do with their available restraint system engineering resources. The agency believes that the limited extension adopted today will allow the industry to concentrate its resources on designing and developing full front air bag systems, which when used with lap/shoulder belts, have the greatest estimated effectiveness of any of the automatic restraint systems studied by the agency. Thus, because a driver-only non-belt automatic restraint system will provide a substantial level of safety benefits during the limited extension, and because the extension will promote the development of even more effective full front automatic restraint systems, the agency believes that the overall safety benefits justify a limited extension. Thus, CHS's request to require automatic safety belts for the passenger during the extension is denied.

NHTSA does not, however, agree with Volvo that the agency's safety analysis justifies an indefinite extension. The primary purpose of the limited extension is to provide manufacturers with more time to design, develop, and produce passenger side air bag systems. The agency's analysis shows that a full-front air bag system provides additional benefits than does a driver-only system. Thus, the agency wants to limit the extension of the one car credit to the shortest time necessary to produce those systems.

Consumer Acceptance of Dual Systems

One issue raised in the November 1986 notice was whether it was a viable option for manufacturers to provide driver-side air bags and passenger-side automatic belts. As discussed in that notice, Ford said that such an option is not viable for two reasons. First, it does not have the engineering resources to conduct parallel air bag and automatic belt programs for the same seating position. In addition, Ford raised the issue of possible market resistance to such a combination. The notice requested other commenters to address this issue.

As discussed in more detail in the section of this notice on leadtime issues, the manufacturers addressing the engineering resource problem all expressed concerns similar to Ford's. The commenters also provided additional information on potential consumer resistance problems to dual automatic restraint systems in a car. Only Chrysler said that it was planning to install driver air bags and passenger automatic safety belts. Chrysler said that although it believes such "mixed systems will be acceptable in the marketplace," it is "concerned that some prospective vehicle purchasers may not like having two different types of restraints for the front seat." GM said that while it has not conducted any market research on the public acceptability of dual restraint systems, it believes that "where the non-symmetry is obvious or intrusive," consumers will not respond favorably. AMC also agreed that for esthetic, styling, and other reasons a manufacturer would not offer a dual system. Honda said it is not considering a dual system since the optimum vehicle body structure for each type of restraint system is different.

Leadtime Issues

A. Establishing a Supplier Base

In the November 1986 notice, NHTSA noted Ford's concerns about the need for suppliers to increase their production capacities and to gain additional experience with the mass production of air bags. In their comments, vehicle manufacturers and equipment suppliers expressed the same concern. As mentioned in the November notice, Talley Industries, which has been involved in developing and producing air bag inflators, expressed support for the proposed extension. Allied Automotive also supported the proposal commenting that a prompt decision on whether to adopt the proposal "will greatly facilitate engineering and manufacturing capacity planning for future passive restraint systems beyond the scheduled phase-in period since significant differences exist between belt and non-belt occupant restraint systems technology." Volvo commented that there will be only three or possibly four suppliers of air bag inflators that have the capacity to produce large scale production before 1989. Volvo said that, "There are indications that even these

suppliers will not have enough production capacity to supply inflators for more than a minor part of the total number of cars produced for the U.S. market."

B. Engineering Resource Problems

The November 1986 notice discussed Ford's concerns about the engineering resource problems it faces in having to conduct parallel programs to develop passenger-side air bag systems and automatic safety belts. In its comment, Ford provided new information on the issue of its engineering resources. Ford explained that since filing its petition, it has been conducting parallel restraint system programs. Ford further explained that "because of the acute shortage of knowledgeable and experienced engineers and test and development facilities available to Ford and its suppliers, and because Ford wants to be able to provide properly designed driver-side supplemental air bags if the extension is granted, Ford has now discontinued any further work on non-air bag passive restraint alternatives for those cars which would be equipped with driver-side supplemental air bag systems if the agency were to grant the extension."

Other manufacturers commenting on this issue cited similar engineering resource problems. AMC said that it could not divide its engineering resources between two simultaneous restraint system development programs. Chrysler said that while it has currently been engaged in a dual development program—driver air bags and passenger automatic belts—the program "is taxing our resources beyond our capability." Chrysler said that there is a shortage of trained design/development people and it has had to use an outside contractor to meet its crash testing needs. In its comments, IIHS said that it has "for months been in contact with suppliers of air bag components across the country, and they confirm that the capacity is not enough at present to provide large numbers of air bags (especially for the passenger side) to meet a 1991 deadline."

Among the foreign manufacturers, Jaguar said that because of the difficulty in allocating its engineering resources, it will have to concentrate its efforts on developing automatic safety belts. It said that adoption of the proposed extension would enable Jaguar to place more efforts on its driver and passenger air bag systems. Saab said that it does not have the resources to develop driver and passenger air bags simultaneously. Citing the need to develop different systems for its two models, Saab also said that it is unlikely that it can introduce passenger air bags by the 1990 model year. Finally, Volvo said that it agreed with Ford about the difficulties of concurrently carrying out parallel restraint system development programs. Volvo observed that the development of a driver side air bag system and a motorized automatic belt could require more development resources than developing a full-front air bag system.

C. Length of the Extension

1. Support for Extension Until September 1, 1993

There was wide-spread support for the proposal to extend the one car credit until September 1, 1993. The commenters supporting the proposed four-year extension were: the American Insurance Association, Automobile Importers of America, American Motors, Breed, Honda, IIHS, Mercedes-Benz, Motor Vehicle Manufacturers Association, National Association of Independent Insurers, National Association of Governors' Highway Safety Representatives, Nationwide Insurance, National Safety Council, Nissan, Romeo-Kojyo, Saab, State Farm Mutual Automobile Insurance Company, The Travelers, United Services Automobile Association, Volvo, and Volkswagen.

Although it supported the four year leadtime proposal, the Automobile Importers of America urged the agency "to monitor the development of passenger air bags closely and be prepared to give additional leadtime, if some unforeseen problems arise." Likewise, Honda said it supported the proposal, but said that it could not presently estimate whether a four year period is sufficient to complete the development and installation of passenger-side air bags. Honda said, however, that it "will make every effort to accomplish this goal." Volvo, while supporting the proposed extension, said that the one car credit should be retained beyond 1993.

Several of the commenters provided information supporting the need for an additional four year period to develop and mass produce passenger-side air bag systems. In its comments, Breed identified what it views as the two major leadtime issues associated with passenger-side air bag systems. Breed said that the first issue is the redesign of the instrument panel to accommodate an air bag. Breed said that it "may be impractical to attempt modification of at least some existing car models to accept passenger side air bags. As a consequence, we believe the installation of a passenger side airbag may have to coincide with the coming out of new car models." The second issue is the time to design and mass produce passenger-side systems. Breed said that it needed approximately one to two years to design an air bag system and needed another two years to tool and prepare production components.

GM repeated its prior estimate that it would take at least 36 months to incorporate either a driver-only or full front (driver and right front passenger) air bag system into existing or new vehicle lines that could accommodate an existing air bag design. GM said that its 36 month estimate did not include the time necessary to develop the design. GM further noted that the bulk of its restraint system developers are currently working on automatic safety belt designs and the remainder are working on its driver air bag program. GM said because of this commitment of resources, "no significant development of a passenger airbag could be implemented prior to 1990."

IIHS also addressed the design and development issue involved in determining leadtime. IIHS said that "Air bags aren't modular components that can simply be tacked on a wide range of car models. Each individual model with an air bag system requires a separate engineering development and crash testing program. It wouldn't be responsible to place the phase-in of air bags ahead of these constraints."

Finally, State Farm addressed the concern that the extension represents a "delay" in the phase-in. Referring to what it termed "false starts" in the implementation of automatic restraints, State Farm said "it is understandable that the contemplated modification of the passive restraint standard may be viewed as the forerunner of yet another delay in full implementation of the standard. Although we share that concern, we believe that we are in a new era of awareness, by the public and the manufacturers, of the importance of safety generally and the desirability and utility of airbags specifically. This has led the management of a number of manufacturers, and we believe will lead the management of other manufacturers to conclude that airbags will meet with public approval and thus lead to widespread use at quite reasonable unit costs."

2. Requests for Indefinite Extension

Several vehicle manufacturers urged the agency not to place a time limit on the extension of the one car credit. Ford said that, in conjunction with its supplier, it had "recently defined in concept an innovative design approach to passenger-side supplemental air bags," but it added it has "no basis now

for saying with any certainty that all design and supply system issues will be resolved by the fall of 1993." Thus, Ford requested an indefinite extension of the one car credit.

Ford said that if NHTSA decided to adopt the proposed 1993 effective date, the agency should "also provide for a review of the 1993 passive restraint requirement to take place during the 1990 calendar year. A review during 1990 would permit inclusion of real world passenger-side air bag experience, yet allow time to complete design work, and permit the construction of facilities and tooling necessary to produce passenger-side supplemental air bags in high volume by September 1993." In its comments, Chrysler also supported adopting an indefinite delay at this time and urged NHTSA to re-examine the termination date issue "in the 1990 time frame."

NHTSA does not believe that Ford and Chrysler have provided a sufficient justification to adopt an indefinite extension of the one car credit. NHTSA believes that there are sufficient technical issues, engineering resource, and supplier capacity problems to justify a *limited* extension of the one car credit. However, all of those issues are potentially solvable by September 1993, and manufacturers and suppliers uniformly have committed themselves to making their best efforts to introduce full front air bag systems by that date. The agency will continue to monitor the progress of vehicle manufacturers and suppliers in designing, developing, and mass producing full front air bag systems. As new issues and concerns arise, NHTSA fully expects that manufacturers and suppliers will bring them to the agency's attention. At that point, if there is additional information available about the nature and extent of any problems and their solutions, the agency can determine whether additional action is appropriate.

3. Request for Earlier Effective Date

New Jersey's Insurance Commissioner supported the proposed extension of the one car credit. He did, however, express concern about the proposed September 1993 effective date and suggested adopting a shorter leadtime. He also suggested the agency phase-in a passenger-side air bag requirement to ensure that vehicle manufacturers steadily increase the production of those systems. Motor Voters made a similar request. It urged that manufacturers receiving a one car credit be required to provide full-front air bag systems for vehicles manufactured after September 1, 1991. Robert Phelps, a private citizen, urged the agency not to adopt the proposed extension, arguing that manufacturers have the technology to install automatic safety belt or air bag systems by September 1, 1989.

CFAS raised a number of issues related to the leadtime necessary for producing passenger-side automatic restraint systems. CFAS first said that the Department's July 1984 decision provided sufficient leadtime to produce non-belt automatic restraint systems, such as air bags. In addition, CFAS said that historically passenger-side systems have been developed before driver-side air bag systems and thus an extension is not needed. In support of its position that passenger-side systems are available now, CFAS cited early 1970's research into passenger-side air bag systems and noted that the first GM and Ford air bag fleet vehicles had full front air bag systems. CFAS said that the supplier problems result from a prior lack of commitment to air bags by the industry and government. It specifically cited the decisions by Allied Chemical and Eaton to leave the air bag market in the 1970's as examples of how government and industry indecision has resulted in supplier problems. CFAS also said that because of marketplace pressures, Ford will proceed with its air bag program, regardless of whether an extension is granted. Finally, CFAS said that if an extension is adopted, NHTSA should phase-in the requirement for a passenger-side air bag.

NHTSA agrees with CFAS that the requirement that all cars have automatic restraints by September 1989 provides manufacturers sufficient time to install some types of automatic restraints, such as automatic safety belts. NHTSA believes, as discussed in detail earlier in this notice, that manufacturers and suppliers have raised valid issues concerning their ability to provide for the wide-spread introduction of passenger-side air bags by September 1989. There is a substantial difference between the supplier base and engineering resources needed for the limited introduction of full-front air bags on full size cars in the 1970's and the planned wide-spread introduction of full-front air bags on a wide variety of car sizes. Whatever the historical reasons for the lack of a supplier base, the issue that faces the agency is that the supplier capacity does not currently exist. The agency has been presented with good faith assurances from manufacturers and suppliers that they have begun to develop the necessary production capabilities. For example, Ford in its latest comments indicated that it has already made commitments for its suppliers to begin expending funds on long leadtime tooling. NHTSA does not believe that these commitments would be made unless the agency had proposed extending the one car credit. The limited extension adopted today will further promote the wide-spread introduction of both driver and passenger-side air bag systems and other non-belt systems.

NHTSA does not believe it is necessary to adopt a new phase-in requirement for passenger-side non-belt systems and, as discussed in detail below, does not believe the one car credit should be limited to cars equipped with air bags. The information provided by the vehicle manufacturers and suppliers indicates that those manufacturers that plan to introduce passenger-side non-belt systems have already begun the initial stages of the design work. The commitment of the financial and engineering resources to the necessary design and development work and the production of manufacturing facilities will serve as a sufficient incentive for manufacturers to ensure that the final products resulting from those efforts will be placed in cars as quickly as possible.

Limit Extension to Air Bags Only

CFAS urged the agency to limit the one vehicle credit to cars that meet the automatic restraint requirements with an air bag system. In particular, CFAS said the one vehicle credit should not be available to passive interiors, which CFAS labeled as "unproven." (Passive interiors or built-in safety is an occupant restraint approach that GM is examining. The approach uses structural changes in the vehicles and increased padding as a means to reduce occupant injury.) Motor Voters also requested the agency to limit the one car credit to cars that have driver-side air bags.

NHTSA agrees with CFAS and Motor Voters that air bag systems, when used in conjunction with manual lap/shoulder belts, are an effective restraint system. However, Standard No. 208 sets performance requirements which can be met by a variety of different technologies, including automatic safety belts, air bags and built-in safety. If built-in safety or other types of non-belt systems can meet the performance requirements of the standard, then manufacturers can use those systems at the driver's position to obtain a one vehicle credit. The agency believes there is no reason to limit the ability of manufacturers to pursue alternative automatic restraint systems, such as built-in safety, that can meet the performance requirements of the standard. Thus, NHTSA is not adopting

the limitation suggested by CFAS and Motor Voters.

The agency notes that as a practical matter, air bags appear to be the only non-belt system that presently meet the performance requirements of the standard. In its comments, GM said that "built-in" safety "is not practicable for certifying a vehicle or any seat position to the current FMVSS 208 passive restraint requirements." GM said, however, it will "continue to implement this important safety concept in its vehicle design program."

Dynamic Testing of Manual Lap/Shoulder Belts

As a part of the November 1986 notice, NHTSA proposed that manual lap/shoulder safety belts installed at the front right passenger's seat after September 1, 1989, must be dynamically tested. Only a few commenters specifically addressed this proposed requirement. Noting its prior support for dynamic testing of manual lap/shoulder belts, GM urged the agency to adopt the proposed requirement. GM said that, "While uncertainties exist regarding the correlation of the laboratory dynamic test with the real world, with such testing the consumer will have the assurance that his or her manual belt system will have met the same level of laboratory performance as an automatic belt which might otherwise have been provided in the vehicle." CFAS, Chrysler, and Motor Voters also supported the proposed dynamic test requirement.

In its comments, Ford urged the agency not to adopt a dynamic test requirement for cars equipped with manual lap/shoulder belts. Ford said that the agency has relied primarily on New Car Assessment Program (NCAP) data to justify the need for dynamic testing. Although Ford agreed that a dynamic test requirement might compel manufacturers to design their safety belt systems to obtain better results in the NCAP test, Ford said that NHTSA has not shown that safer vehicles would result from the requirement.

NHTSA believes that the proposed test has the obvious safety benefit, cited by GM, of ensuring that a passenger in a manual belt equipped car will receive the same level of protection, when he or she wears the safety belt, as a passenger in an automatic belt equipped car. The agency recognizes that there are disagreements about the precise correlation of the results obtained in NCAP and other laboratory tests to real world crashes. One of the reasons it is difficult to correlate the results is the relative lack of data on real world crashes at 35 mph involving drivers and passengers wearing safety belts. As usage increases due to safety belt use laws, data on that type of crash should become more available. In addition, because of the wide variety of differing crashes in which a vehicle can be involved in the real world, the agency always cautions users of NCAP test results that those results cannot be used to predict the results in an actual crash. At the same time, the NCAP tests do measure the ability of vehicles to provide important head, chest, and leg protection in a standardized frontal crash test. The types of changes made to safety belt systems and vehicle structure to meet the proposed 30 mph barrier test, such as using energy-absorbing safety belt webbing and ensuring that safety belt retractors lock quickly to hold an occupant in place, should also help reduce injuries in the real world. The agency is thus adopting the proposed dynamic test requirement.

Denial of Two Car Credit

As a part of the November 1986 notice, NHTSA announced its decision to deny separate petitions filed by Porsche and IIHS that asked the agency to provide a two car credit to manufacturers that install driver and passenger-side air bag systems during the phase-in period. In denying the petitions, NHTSA requested manufacturers to provide additional information to the agency indicating how they would make use of a two car credit. The agency said that if manufacturers provided sufficient information to refute NHTSA's reasons for denying the petition, the agency would reconsider its denial.

Only two manufacturers specifically addressed the two car credit issue. Chrysler said that it had no plans to install passenger-side air bags during the phase-in period and the grant of the Porsche/IIHS petition would not cause Chrysler to change its plans. Ford was the only other manufacturer to comment on this issue. Ford said that it plans to offer a passenger-side air bag on one car line during the 1989 model year. Ford said that its plans "are independent of whether such cars would receive a 1.5 or 2.0 credit." Since there is no new information indicating that a two car credit would promote the introduction of full-front air bag systems, NHTSA stands by it denial of the Porsche-IIHS petition.

Public Information

In its comments, the National Association of Governors' Highway Safety Representatives urged the vehicle industry and the Department of Transportation to market aggressively the availability and benefit of air bag protection. In addition, NAGHSR urged manufacturers, dealers, and the Department to disseminate information to the public about automatic restraint systems.

NHTSA recognizes the importance of providing consumers with information about the wide range of available automatic restraint systems. To that end, NHTSA has prepared and made available to the public, brochures and other information describing the benefits of different types of automatic restraint systems and explaining how they work. For example, NHTSA has already distributed more than 150,000 copies of two new pamphlets on automatic restraints and 350,000 copies of a pamphlet showing parents how to use child safety seats with the new restraints.

NHTSA is also aware of manufacturer and dealer programs to promote awareness of automatic restraints. For example, Ford has been sponsoring "safety days" at dealerships around the country to publicize the availability of air bags and their new automatic belts. These events have resulted in dealer orders for thousands of air bag-equipped cars. The agency encourages manufacturers and dealers to continue with these activities during the automatic restraint phase-in period.

Rescind Safety Belt Use Law Provision

The Massachusetts-based Committee to Repeal the Mandatory Seatbelt Law filed comments asking the agency to reconsider the provision in Standard No. 208 that the automatic restraint requirements will be rescinded if two-thirds of the U.S. population is covered by effective safety belt laws. In essence, the Committee said that safety belt use laws are unpopular because they place a burden on the freedom of private citizens and thus the agency should not encourage the adoption of those laws. The agency, on August 30, 1985 (50 FR 35233), has already reviewed and rejected requests such as the Committee's. For the reasons stated in that notice, the agency is rejecting this request as well.

Regulatory Impacts

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291, but is significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has prepared a final regulatory evaluation describing the economic and

other effects of this rulemaking action, which is available in the docket.

As mentioned earlier in this notice, the preliminary and now the final regulatory evaluation shows that a driver-only air bag system with a manual lap/shoulder belt for the right front passenger can have substantial safety benefits. In fact, safety belt usage in cars equipped with automatic safety belts for the driver and the passenger must exceed 60 percent, before the benefits of that system equal the benefits of a driver-only air bag.

NHTSA's analysis further shows that automatic belt usage would have to be greater than 75 percent to exceed the benefits of a driver and passenger side air bag system. Thus, the agency believes that a temporary extension of the one car credit for driver-only systems will not have an adverse safety effect and will provide additional time for the orderly development and installation of driver and passenger air bag systems. Furthermore, the agency believes that the amendments adopted today can result in higher levels of safety. The agency notes that vehicle manufacturers that are currently offering driver-only air bag systems are voluntarily installing lap/shoulder safety belts for the driver, even though they could install only a lap safety belt. The Final Regulatory Impact Analysis done for the Department's July 1984 occupant protection decision estimated that the combination of a lap/shoulder safety belt and an air bag system would provide the highest level of effectiveness in reducing fatal and moderate-to-critical injuries of all the restraint systems studied.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a full regulatory flexibility analysis.

Few, if any, passenger car manufacturers would qualify as small entities and the proposed change in the credit provision should not have a substantial effect on small manufacturers. The changes adopted today will provide vehicle man facturers and restraint system suppliers with additional leadtime to develop passenger-side non-belt systems. The additional leadtime should have the effect of reducing a manufacturer's costs. Small organizations and governmental units that purchase cars with non-belt automatic restraint systems would be affected by this final rule. However, the cost effect of this final rule should not significantly affect them, since the potential cost reductions associated with the changes adopted today should not be significant.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

This rulemaking action does not contain any information collection requirements that must be submitted to the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, § 571.208 of Title 49 of the Code of Federal Regulations is amended as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 Standard No. 208, Occupant Crash Protection.

2. S4.1.4 is revised to read as follows:

S4.1.4 *Passenger cars manufactured on or after September 1, 1989.* Except as provided in S4.1.5, each passenger car manufactured on or after September 1, 1989, shall comply with the requirements of S4.1.2.1. Until September 1, 1993, each car whose driver's designated seating position complies with the requirements of S4.1.2.1(a) by means not including any type of seat belt and whose right front designated seating position is equipped with a manual Type 2 seat belt that meets the requirements of S5.1, with the Type 2 seat belt assembly adjusted in accordance with S7.4.2, shall be counted as a vehicle complying with S4.1.2.1. A vehicle shall not be deemed to be in noncompliance with this standard if its manufacturer establishes that it did not have reason to know in the exercise of due care that such vehicle is not in conformity with the requirement of this standard.

Issued on: March 25, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-6893 Filed 3-25-87; 4:37 pm]

BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 52, No. 60
Monday, March 30, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 736

[Amendment No. 3]

Grain Warehouses; Definitions, Financial Requirements and Warehouse Bonds

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: This rule would amend the regulations at 7 CFR Part 736 relating to gain warehouses licensed under the United States Warehouse Act to: (1) Add definitions; (2) increase the total net asset requirements; (3) require warehousemen to have and maintain total current assets equal to or exceeding total current liabilities; (4) allow the Secretary to accept a letter of credit for a deficiency in total net assets above the minimum requirement; (5) permit a warehouseman to deposit with the Secretary for the protection of depositors, United States public debt obligations as security in lieu of a bond furnished by a corporate surety; (6) allow a waiver of the requirements for an individual financial statement from a warehouseman wholly-owned by another business entity which other entity is willing to furnish an acceptable financial statement and guarantee the storage obligations of the licensed warehouseman; (7) accept certain appraisals of real and personal property to supplement financial statements; and (8) provide for the acceptance of a continuous form of bond from a surety company.

DATE: Written comments should be received on or before April 29, 1987 to assure consideration.

ADDRESS: Written comments should be sent to Paul W. King, Director, Warehouse Division, Room 5968-South Agriculture Building, Agricultural Stabilization and Conservation Service, P.O. Box 2415, Department of Agriculture, Washington, DC 20013.

AFOR FURTHER INFORMATION CONTACT: R. Ford Lanterman, 202–475–4032.

SUPPLEMENTARY INFORMATION:

Rulemaking Matters

This rule has been reviewed in conformity with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "non-major." This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. A complete review is in process.

Milton J. Hertz, Administrator, ASCS, has determined that this action is not a major rule since implementation of the proposed rule will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographic region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

The information collection requirements proposed by this rule will not become effective until they have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980. Such approval has been requested and is under consideration. Comments concerning the information collection requirements contained in these proposed rules may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer ASCS/USDA, Washington, DC 20503, Telephone (202) 395–7340.

Milton J. Hertz, Administrator, ASCS, has certified that this action will not have a significant economic impact on a substantial number of small entities because: (i) This action imposes only moderate economic costs on small entities; and (ii) the use of the service is voluntary. Therefore, no regulatory flexibility analysis was prepared.

This rule is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as wildlife habitat, water quality, or land use and appearance. Accordingly, neither an environmental assessment nor an environmental impact statement is required and none was prepared.

This action will not have a significant impact specifically upon area and community development, therefore review as established by Executive Order 12291 (February 17, 1981) was not used to assure that units of local government are informed of this action.

Background

The U.S. Warehouse Act [7 U.S.C. 241 *et seq.*] [the "Act"] provides that warehousemen who apply to the Secretary of Agriculture and who meet certain statutory and regulatory standards may be federally licensed. The primary objectives of the Act are to: (1) Protect producers and others who store their property in public warehouses; (2) assure the integrity of warehouse receipts as documents of title, thereby facilitating trading of agricultural commodities in interstate commerce; and (3) set and maintain a standard for sound warehouse operations.

The Department of Agriculture has sought to attain these objectives by: research and development of basic standards for good warehousing practices; requiring original and continuing examinations of applicants and licensees; establishing financial and bonding requirements; and establishing licensing and regulatory requirements.

The issuance of a warehouse receipt by the warehouseman and its delivery to the depository is the best legal evidence that the bailment contract, i.e., the storage obligation exists. However, a warehouse receipt is acceptable only when it has integrity. "Integrity" means that the original depositor or a subsequent holder of a receipt must have reasonable assurance that the product covered by the warehouse receipt will be returned upon surrender of the receipt and a valid request for delivery. If the depositor or holder of the receipt fails to receive return of the product, they must have the assurance that the warehouseman is able to compensate them for this breach of contract.

Historically, the responsibility of licensed warehousemen to fulfill their obligations to depositors has been supported by requiring the warehousemen to have and maintain a certain level of allowable total net

assets and a corporate surety bond. The levels of both the assets and the bonds have been generally fixed by the maximum number of bushels of licensed capacity. This is true since most, if not all, licensed grain warehousemen also operate a grain marketing business which buys grain from producers through the same facilities used for the storage of grain. The businesses of storing and marketing often become inseparable and funds available to the total business often cannot be segregated. These situations create continuous, dual and at times uncertain obligations leading to a commingling of grain assets and liabilities. The use of "delayed price" and "deferred payment" contracts as a marketing tool also has contributed to the possibility of increased losses.

The present asset and bonding requirements have served their purpose. However, in recent years there has been an increasing number of individual firms experiencing financial difficulties as reflected by bankruptcies, liquidations, and receiverships. For example, in the warehouse industry in general, while only two bankruptcies were recorded in 1974, over the years the numbers have increased to 18 in 1979, 48 in 1984, and 76 in 1985.

In addition to this increase in the frequency of bankruptcies, changes in the marketing operations of warehousemen also increase the risk of loss to depositors of grain.

This proposed rule would continue to protect depositors despite these changes in the nature of the warehouse industry. This proposed rule would increase the minimum net worth requirements of warehousemen and would require a minimum level of working capital.

Recognizing that increases in financial capacity requirements will require adjustments in the operations of some warehousemen and seeking to prevent undue hardship on any warehousemen, this rule proposes to add some flexibility to the bonding and net worth requirements. These proposed changes are summarized below.

1. Definitions

This proposed rule would add definitions for: (a) Net assets, (b) warehouse capacity, (c) current assets, and (d) current liabilities.

2. Changes in Net Asset Requirements for Licensing and Continuation of License

This proposed rule would require moderate increases in net asset requirements for licensing and continuation of license.

Total net assets generally are associated with the ability to withstand losses and carry the business through seasonal fluctuations. Current net assets, as compared with current liabilities, are a measure of the company's ability to carry on day-to-day operations (cash flow). When either total net assets or current net assets are too low or impaired, the risk of insolvency increases.

Significant changes in net asset requirements were last made in December 1974 when the rate was raised from 15 cents to 20 cents per bushel of licensed capacity and the minimum from $10,000 to $20,000. (The minimum was subsequently raised from $20,000 to $25,000 in June 1982.)

A new paragraph is proposed to be added to § 736.6 (d) requiring warehousemen to have and maintain total current assets equal to or exceeding total current liabilities (working capital) in addition to total net asset (net worth) requirements.

Further, this rule proposes that the minimum total net asset requirement be raised from $25,000 to $50,000 and that the per bushel rate used to compute total net asset requirements be increased to 25 cents per bushel of licensed capacity.

3. Acceptable Form of Bond

Surety bonds are becoming increasing difficult to obtain. Where available, the costs of bonding have increased substantially to the point where the cost is a major financial obligation. The United States Treasury Department (31 CFR Part 225) allows the deposit of security with the bond-approving officer in lieu of bond. United States bonds, Treasury notes or other public debt obligations of the United States or obligations which are unconditionally guaranteed as to both interest and principal by the United States are acceptable.

Agricultural Stabilization and Conservation Service (ASCS) proposes to amend 7 CFR 736.13 to permit acceptance by the Secretary of a deposit of United States debt obligations in lieu of the bond. The use of such a deposit would eliminate the cumulative protection presently provided by the surety bond.

The deposit will not be released until one year after the license is terminated and the storage obligations of the warehouse have been liquidated or otherwise satisfied. The deposit could be released earlier if the warehouseman is able to show that all storage obligations of the warehouse have been satisied and that no depositors object. In the event that the amount of deposit required is reduced, the obligation will be released to the extent of the reduction after the next satisfactory warehouse examination which confirms the reduction of obligation. Interest on the obligations will accrue to the benefit of the warehouseman.

At the present time it is possible to make claim against more than one bond if the loss occurred in more than one bond period.

ASCS further proposes to amend 7 CFR 736.13 to accept a continuous form of surety bond. This would remove the cumulative protection presently provided by the surety bond since the aggregate liability of the principal and surety under this bond for any one or more defaults of the principal during the bond year will not exceed the face amount of the bond. However, the bond will continue to protect to the extent of the amount of the bond for each loss or occurrence.

Experience has shown that claims against more than one bond are the exception and the acceptance of these forms of surety would not be expected to adversely affect depositors. This is particularly true in view of the examination cycle.

4. Letter of Credit

This proposed rule would permt acceptance of a Letter of Credit for a deficiency in net assets but only to the extent that the warehouseman's net asset requirement exceeds $50,000. A surety bond would still be required for the regular performance bond amount. The Letter of Credit must be issued for not less than 2 years and coincide with the warehouseman's bond. The Letter of Credit must be irrevocable; issued by a national bank or a member bank of the Federal Reserve System; payable to the Secretary by sight draft; and insured as a deposit by the Federal Deposit Insurance Corporation.

5. Waiver of Requirements for Individual Financial Statements

The regulations require that each warehouseman making application for a license and each warehouseman licensed under the regulations shall provide a financial statement meeting the requirements of 7 CFR 736.6 (b) and (c) and further shall have total net assets and working capital equal to the minimums set out in 7 CFR 736.6(d). Some warehousemen applying for a license and some holding licenses are wholly owned by other business entities (parent). These warehousemen may have difficulty producing a statement meeting the financial requirements of the regulations, while the "parent"

entity is willing to guarantee all storage obligations of the warehouseman and could produce and supply an acceptable statement on behalf of the wholly owned subsidiary. Under these circumstances, preparing individual statements and maintaining required assets by each individual warehouseman would be a costly and unnecessary duplication of effort. This rule proposes to accept on behalf of the warehouseman financial statements of the "parent" entity when such statements are supported by a guaranty of all storage obligations that the licensed warehouseman may incur.

6. Appraisals of Real or Personal Property

Generally accepted accounting principles preclude valuing depreciable fixed assets at other than cost less depreciation values. Present regulations require that all financial statements be prepared in accordance with generally accepted accounting principles. Because of the age of many warehouses and the attendant depreciation schedules, oftentimes fixed assets are listed in the financial statement at less than the value that could be realized upon the sale of the asset on the open market. To remedy this, this rule proposes to accept appraisals which give warehousemen credit for the actual market values of the fixed assets.

To be acceptable, narrative market value appraisals of land, buildings, and equipment must be made and prepared by independent appraisers certified by a recognized appraisal society or by a professional appraisal organization. This rule also proposes to accept land only, value appraisals which are prepared by local professional realtors provided that the appraisal report includes a minimum of two citations of recent sales of similar properties in the near geographical area and is accompanied by a statement of the appraiser's qualifications.

Acceptance of appraised values of all fixed assets would be subject to the following limitations:

(1) Appraisal values for depreciable fixed assets would be limited to values actually insured;

(2) Appraisal surpluses would be discounted 30 percent;

(3) Warehousemen would be required to have a positive working capital position; and

(4) Current acquisition of assets by warehousemen through arms length contracts between disinterested parties would not be eligible for consideration at appraised values (the transaction itself is the best indication of value).

7. Continuous Bond and License

ASCS proposes to amend 7 CFR 736.16 to issue a continuous form of license provided that the warehouseman files a bond with the Secretary which meets the requirements outlined in 7 CFR 736.13(a), i.e., required amount and with the approval of the Secretary. Failure of a warehouseman to provide such bond will result in revocation of the warehouseman's license.

List of Subjects in 7 CFR Part 736

Definitions, Warehouse licenses, Financial requirements, Warehouse bonds.

Proposed Rule

Accordingly it is proposed to amend 7 CFR Part 736 as follows:

PART 736—GRAIN WAREHOUSES

1. The authority citation for 7 CFR Part 736 continues to read as follows:

Authority: Section 28, 39 Stat. 490 (7 U.S.C. 268)

2. Section 736.2 is amended by adding paragraphs (w), (x), (y), and (z) to read as follows:

§736.2 Terms defined.

* * * * *

(w) *Net assets* The difference remaining when liabilities are subtracted from allowable assets as determined by the Secretary after review of the warehouseman's financial statement. In determining total net assets, credit may be given for insurable property such as buildings, machinery, equipment, and merchandise inventory only to the extent that such property is protected by insurance against loss or damage by fire, lightning, and tornado. Such insurance shall be in the form of lawful insurance policies issued by insurance companies authorized to do such business and subject to service of process in suits brought in the State in which the warehouse is located.

(x) *Warehouse capacity* Warehouse capacity is defined as the maximum number of bushels of grain that the warehouse could accommodate when stored in the manner customary to the grain for the warehouse, as determined by the Secretary.

(y) *Current assets* Assets, including cash, that are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

(z) *Current liabilities* Those financial obligations which are expected to be satisfied during the normal operating cycle of the business or within one year if the operating cycle is shorter than one year.

3. Section 736.6 is amended by revising paragraphs (d) and (f), and by adding a paragraph (i) to read as follows.

§736.6 Financial requirements.

* * * * *

(d) Each warehouseman conducting a warehouse which is licensed under the regulations in this part, or for which application for such a license has been made, shall have and maintain:

(1) Total net assets liable and available for the payment of any indeptedness arising from the conduct of the warehouse of at least 25 cents multiplied by the warehouse capacity in bushels, however, no person may be licensed as a warehouseman under this part unless that person has allowable net assets of at least $50,000, (Any deficiency in net assets above the $50,000 minimum may be supplied by an increase in the amount of the warehouseman's bond in accordance with §736.14(c) of this part.); and

(2) Total current assets equal to or exceeding total current liabilities or assurance that funds will be available to meet current obligations.

* * * * *

(f) Subject to such terms and conditions as the Secretary may prescribe and for the purposes of determining allowable assets and liabilities under paragraphs (d) and (e) of this section:

(1) Capital stock shall not be considered a liability,

(2) Appraisals of the value of fixed assets in excess of the book value claimed in the financial statement submitted by warehousemen to conform with paragraphs (b) and (c) may be allowed by the Secretary if prepared by independent appraisers acceptable to the Secretary;

(3) Financial statements of a parent company which separately identifies the financial position of a wholly owned subsidiary and which meets the requirements of paragraphs (b), (c), and (d) may be accepted by the Secretary in lieu of the warehouseman meeting such requirements; and

(4) Guaranty agreements from a parent company submitted on behalf of a wholly owned subsidiary may be accepted by the Secretary as meeting the requirements of paragraphs (b), (c), and (d).

* * * * *

(i) When a warehouseman files a bond in the form of either a deposit of public debt obligations of the United States or other obligations which are

unconditionally guaranteed as to both interest and principal by the United States as provided for in § 736.13(c):

(1) The obligation deposited shall not be considered a part of the warehouseman's assets for purposes of § 736.6(d) (1) and (2);

(2) A deficiency in total allowable net and current assets as computed for § 736.6(d) (1) and (2) may be offset by the licensed warehouseman furnishing a corporate surety bond for the difference;

(3) The deposit may be replaced or continued in the required amount from year to year; and

(4) The deposit shall not be released until one year after termination (cancellation or revocation) of the license which it supports unless the warehouseman offers evidence acceptable to the Secretary that all obligations the deposit protects have been fulfilled.

Nothing in these regulations shall prohibit a person other than the licensed warehouseman from furnishing such bond or additions thereto on behalf and in the name of the licensed warehouseman subject to provisions of § 736.13(c).

* * * * *

§ 736.7 [Amended]

4. Section 736.7 is amended by changing "$25,000" to "$50,000."

§ 736.9 [Amended]

5. Section 736.9(a) is amended by changing "$25,000" to "$50,000."

6. Section 736.13 is revised to read as follows:

§ 736.13 Bond required; time of filing.

Each warehouseman applying for a warehouse license under the Act shall, before such license is granted, file with the Secretary or his designated representative a bond either:

(a) In the form of a bond containing the following conditions and such other terms as the Secretary or his designated representative may prescribe in the approved bond forms, with such changes as may be necessary to adapt the forms to the type of legal entity involved:

Now, therefore, if the said license(s) or any amendments thereto be granted and said principal, and its successors and assigns operating said warehouse(s), shall faithfully perform during the period of one year commencing _____, or until the termination of said license(s) in the event of termination prior to the end of the one year period, all obligations of a licensed warehouseman under the terms of the Act and regulations thereunder relating to the above-named products.

This bond shall be effective for one year from the date last entered above, and shall be construed as being renewed on each anniversary thereafter unless otherwise terminated as herein provided.

The principal and surety shall only be obligated to the obligee to the extent of the face amount of the bond for each loss, however, the aggregate liability of the principal and surety under this bond for any one or more defaults of the principal during the bond year shall in no event exceed the face amount of the bond.

This obligation shall be and remain in full force and effect from date of issue until one hundred twenty (120) days after notice in writing of cancellation shall have been received by the Secretary from the principal or surety. If said notice shall be given by the surety, a copy thereof shall be mailed on the same day to the principal. No cancellation of this bond and no cancellation of any of its provisions shall affect any liability accrued thereon at the time of said notice or which may accrue thereon during the one hundred twenty (120) days after such notice.

A bond in this form shall be subject to 7 CFR 736.6, and 736.14 through 736.17, and 31 CFR Part 25; or

(b) In the form of a certificate of participation in and coverage by an indemnity or insurance fund as approved by the Secretary, established and maintained by a State, backed by the full faith and credit of the applicable State, and which guarantees depositors of the licensed warehouse full indemnification for the breach of any obligation of the licensed warehouseman under the terms of the Act and regulations. A certificate of participation and coverage in such fund shall be furnished to the Secretary annually. If administration or application of the fund shall change after being approved by the Secretary, the Secretary may revoke his approval. Such revocation shall not affect a depositor's rights which have arisen prior to such revocation. Upon such revocation the licensed warehouseman then must comply with paragraph (a) of this section. Such certificate of participation shall not be subject to §§ 736.14 and 736.15, or

(c) In the form of a deposit with the Secretary as security, United States bonds, Treasury notes, or other public debt obligations of the United States or obligations which are unconditionally guaranteed as to both interest and principal by the United States, in a sum equal to their par value to the amount of the penal bond required to be furnished, together within irrevocable power of attorney and agreement in the form prescribed, authorizing the Secretary to collect or sell, assign and transfer such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. A bond in this form shall be subject to 7 CFR 736.6 and 736.14 through 736.17 and 31 CFR Part 225.

7. Section 736.14 is amended by revising paragraph (c) to read as follows:

§ 736.14 Amount of bond; additional amounts.

* * * * *

(c) In case of a deficiency in net assets about the $50,000 minimum required under § 736.6(d)(1), there shall be added to the amount of bond determined in accordance with paragraph (a) of this section an amount equal to such deficiency or a letter of credit in the amount of the deficiency issued to the Secretary for a period not less than one year to coincide with the warehouseman's bond. Any letter of credit must be clean, irrevocable, unconditional, issued by a national bank or a member of the Federal Reserve System, payable to the Secretary by sight draft and insured as a deposit by the Federal Deposit Insurance Corporation. In any other case in which the Secretary, or his designated representative, finds that conditions exist which warrant requiring additional bond, there shall be added to the amount of bond as detemined under the other provisions of this section, a further amount to meet such conditions.

8. Section 736.16 is revised to read as follows:

§ 736.16 New bond required each year.

A continuous form of license shall remain in force for more than one year from its effective date or any subsequent extension thereof, provided that the warehouseman has on file with the Secretary a bond meeting the terms and conditions as outlined in 7 CFR 736.13(a). Such bond must be in the amount required by the Secretary and approved by him or his designated representative. Failure to provide or renew a bond shall result in immediate termination of the warehouseman's license.

Signed at Washington, DC, March 25, 1987.

Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 87-6929 Filed 3-27-87; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 911

Limes Grown in Florida; Proposed Amendment No. 6 to Rules and Regulations; Daily Pack-Out Reports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require lime handlers to report to the Florida Lime Administrative Committee the daily pack-out of selected sizes of limes during the entire twelve-month season. Handlers already are required to report this information to the committee during the March through June period of each season. The collection and dissemination of such information is necessary to assist growers and handlers in making better harvesting and marketing decisions.

DATE: Comments due April 29, 1987.

ADDRESSES: Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085 South Building, Washington, DC 20250. Comments will be available for public inspection in the office of the Docket Clerk during regular business hours.

Comments on the information collection and recordkeeping requirements contained in this proposed regulation should be sent to Marina Gatti, Desk Officer for USDA, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250. Telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1220) which implement the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) and section 3504(h) of that Act, the information and collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to Marina Gatti, Desk Officer for the Agricultural Marketing Service, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, as amended (the Act, 7 U.S.C. 601 through 674), and rules promulgated thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The production area of Marketing Order No. 911 consists of all of the State of Florida except the area west of the Suwannee River. Production for the 1985-86 season totaled about 64,000 tons or 2.3 million bushels, of which 39,000 tons or 1.4 million bushels went to fresh market. The remaining 25,000 tons were processed for juice. Total production value was $21 million. It is estimated that 26 handlers of Florida limes under the marketing order for limes grown in Florida will be subject to regulation during the course of the current season. In addition, there are approximately 263 lime producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000 and agricultural service firms which would include handlers are defined as those whose gross annual receipts are less than $3,500,000. The majority of these handlers and producers may be classified as small entities.

Pursuant to the requirements set forth in the RFA the Administrator of AMS has considered the economic impact on small entities. The proposed rule would require lime handlers to report to the committee the daily pack-out of certain sizes of limes for the entire twelve-month season. The current rule requires daily reports for March through June of each year. The collection and dissemination of such information for the entire season should assist growers and handlers in making better harvesting and marketing decisions. This action was unanimously recommended by the committee which is composed of representatives of growers and handlers.

Florida lime handlers already keep daily pack-out information for the entire season for use in paying growers. Extension of the reporting requirements for the entire season is expected to have little effect on handler costs or their reporting burdens under the program. The added benefits of disseminating this additional information throughout the industry are expected to outweigh any increased cost experienced by handlers. Committee administrative personnel gather this information by telephone from individual handlers. In addition, many handlers are currently supplying such information voluntarily to the committee. The total time expenditure required of handlers to report this information should not exceed a few minutes per day.

Based on available information, it has been determined that this proposed rule would have no significant economic impact on a substantial number of small entities.

This proposed rule would amend § 911.111 of Subpart—Rules and Regulations, requiring handlers to report specific pack-out information on a daily basis to the committee during the entire twelve-month season. This action would help growers make better harvesting decisions and handlers to make better marketing decisions. A final rule requiring handlers to report daily pack-out information of selected sizes during March through June each season was published in the **Federal Register** on January 9, 1987 (52 FR 758). This rule is pursuant to the marketing agreement and Order No. 911, both as amended, regulating the handling of limes grown in Florida. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 through 674). The committee, established under the order, is responsible for its local administration.

Weekly pack-out information is tabulated by size of the fruit on a total industry basis and disseminated along with the volume shipped and price report distributed to growers and handlers by the committee. It has been and will continue to be helpful to producers in planning harvesting to obtain the sizes desired in the marketplace. This helps assure packers and shippers of the desired sizes and helps them talior shipments to market needs. By harvesting the sizes desired in the marketplace growers should be able to improve their returns. At the same time, shippers and packers should be able to maximize shipments with the sizes desired in the marketplace.

List of Subjects in 7 CFR Part 911

Marketing agreements and orders, Limes, Florida.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 911 be amended as follows:

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 911 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 911.111 is proposed to be revised (51 FR 10535, March 27, 1986; 52 FR 758, January 9, 1987) to read as follows:

§ 911.111 Pack-out reports.

Each handler shall, at the end of each day's operation, report to the committee the percent of that day's pack-out in the following five size categories:

(a) Sizes 28 and 36,
(b) Size 42,
(c) Size 48,
(d) Size 54, and
(e) Sizes 63 and 72.

Dated: March 24, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-6865 Filed 3-27-87; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 032CE, Notice No. 23-ACE-30]

Special Conditions; Fairchild Models SA227-AT and SA227-TT Airplanes [Type Certificate No. A5SW], Incorporating Emergency Lighting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Special Conditions.

SUMMARY: This notice proposes special conditions for the Fairchild Aircraft Corporation Models SA227-AT and SA227-TT Airplanes incorporating an emergency lighting system as an aid for emergency evacuation. The applicable requirements for these airplanes do not contain adequate or appropriate safety standards for these systems. These proposed special conditions contain the additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATE: Comments must be received on or before April 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 032CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 032CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerspace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking further action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the rules docket for examination by interested persons both before and after the closing date for submission of comments.

Type Certification Basis

The type certification basis for the Fairchild Aircraft Corporation Model SA227-AT Airplane is as follows: Part 3 of the Civil Air Regulations, effective May 15, 1956, as amended by Amendments 3-1 through 3-8; § 23.511 amended by Amendment 23-7, effective September 14, 1969; § 23.175(d) as amended by Amendment 23-14, effective Decembr 20, 1973; Special Conditions outlined in FAA letters dated November 19, 1965, August 19, 1967, February 5, 1968, and April 4, 1968; Amendment B of SFAR NO. 41, including paragraph 4(c) and the compartment interior requirements of § 25.853 (a), (b), (b-1), b-2), and (b-3) effective September 26, 1978; Part 36, Appendix F, effective December 1, 1969, as amended by Amendments 36-1 through 36-6; special conditions number 23-ACE-12, effective September 8, 1986 and the special conditions that may result from this proposal.

The type certification basis for the Fairchild Aircraft Corporation Model SA227-TT Airplane is as follows: Part 3 of the Civil Air Regulations (CAR), effective May 15, 1956, as amended by Amendments 3-1 through 3-8; § 23.903(b) as amended by Amendment 23-17 effective February 1, 1977; Special Conditions outlined in FAA letters dated November 19, 1965, August 22, 1967, February 5, 1968, and April 4, 1968; SFAR No. 23.27; Amendment B of SFAR 41, including paragraph 4(c) and the compartment interior requirements of § 25.853 (a), (b), (b-1), (b-2), and (b-3) effective September 26, 1978; Part 36, Appendix F effective December 1, 1969, as amended by Amendments 36-1 through 36-6; special condition number 23-ACE-12, effective September 8, 1986 and the special conditions that may result from this proposal.

Background

On August 6, 1986, Fairchild Aircraft Corporation, Post Office Box 32486, San Antonio, Texas 78284, made application to the FAA for approval of type design changes necessary to incorporate an emergency lighting system on the Fairchild Aircraft Corporation Model SA227 Series Airplane.

Fairchild Aircraft Corporation has certified a 19-place airplane which complies with SFAR 41 and incorporates three window exits and a main cabin door for egress from the airplane. Fairchild proposes to change the interior configuration such that one window emergency exit is eliminated and passenger capacity is decreased from 19 to 10-12. Fairchild Aircraft Corporation proposes to install an emergency lighting system for use during emergency evacuation. Since the airplane certification basis includes SFAR-41, an emergency evacuation demonstration is required, but an emergency lighting system is not required.

Past emergency evacuation demonstrations on these airplanes have shown that the most critical aspect of the evacuation is for the passengers to find the location of emergency exits. The passenger cabin length is approximately 25 feet with the entrance door at one end of the cabin and the window exits about in the middle of the cabin.

Discussion

The intallation of emergency lighting systems in small airplanes was not

envisioned when the applicable requirements for the subject airplanes were promulgated.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

An emergency evacuation demonstration is required for the affected airplanes. The applicable requirements do not contain a requirement for emergency lighting to aid in emergency evacuation, nor do these requirements include design criteria should the applicant choose to include such features. If Fairchild Aircraft Corporation chooses to install emergency lighting in the Model SA227 Series Airplane in order to improve emergency evacution, and use such lighting during the required evacuation demonstration, appropriate standards should be adopted.

Because emergency lighting is not required, when an applicant chooses to provide such lighting, the FAA must evaluate such lighting relative to its intended function. If that intended function would affect the showing of compliance with an existing requirement, the FAA must assure that the additional system performs its function when the critical event occurs, in this case, an actual emergency evacuation. The FAA concluded that specific criteria is necessary.

Experience with such systems in other categories of airplanes leads the FAA to conclude a source of emergency lighting may be proposed that is common to the normal airplane lighting system. Due to the routine use of the normal lighting system, both in flight and on the ground, the source of energy for the emergency lighting system could be depleted if it were available for routine operations. Because the normal electrical system could be deactivated during emergencies, a source of energy for the emergency lighting system must be available that is independent of the source for the normal lighting system.

In a survivable crash, the cockpit crew may be disabled and unable to turn on the emergency lights. Therefore, in addition to having cockpit controls for turning on the lights, a control must also be available in the cockpit to arm the emergency light system. To assure activation of the emergency lighting system, automatic activation must occur when the engine-driven electrical generator power is lost or an impact sensor must be provided to turn the armed system on.

The emergency lighting system should only be armed during flight operations. Because crew action is required to arm the system, there must be a caution light to alert the crew if normal electical power is on in the airplane and the emergency lighting system is not armed.

Emergency evacuation must be demonstrated and accomplished in 90 seconds or less; however, in a survivable crash where injuries occur, significantly longer evacuation times may be necessary. Therefore, the energy supply for the emergency light energy must be adequate for ten minutes.

Common practice is to use rechargeable batteries, but non-rechargeable batteries may be used. Regardless of which type battery is used, the design must provide warning of charging circuit faults or inadequate battery charge.

The emergency lighting system must be functional after being subjected to the inertia forces expected in survivable crashes. Those forces are set forth in § 23.561(b).

During the survivable crash, various modes of system damage will occur, up to and including single transverse vertical separation of the fuselage. Any such single occurrence must not render the total emergency lighting system inoperative.

The minimum level of illumination is optional because providing any lighting at all is optional. However, the maximum illumination used during the emergency evacuation demonstration must be the minimum available after any single probable failure.

The FAA has considered the features proposed by Fairchild Aircraft Corporation for the emergency lighting installation in the Fairchild Model 227 Series Airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems, in addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these Special Conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Fairchild Aircraft Corporation Models SA227-AT and SA227-TT Airplanes when equipped with an emergency lighting system intended for use during emergency evacuation of the affected airplanes.

Emergency Lighting

1. If an emergency lighting system is installed and used as an aid in showing compliance with any applicable regulatory requirement, including emergency evacuation demonstrations, the following special conditions apply:

(a) The source of illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(b) There must be a caution light which illuminates in the cockpit when power is on in the airplane and the emergency lighting control device is not armed.

(c) The emergency lights must be operable manually from the flightcrew station and be provided with automatic activation. The cockpit control device must have an "on", "off", and "armed" position so that, when armed in the cockpit, the lights will operate by automatic activation. For automatic activation of the system, the sensor must:

(1) Activate when engine-driven electrical generator power is lost, or

(2) Activate when subjected to a force of 5.0, +2, −0 g. and greater for a duration of 11, +5, −0 milliseconds and greater in the direction of the longitudinal axis of the airplane; must not be activated under conditions less severe; and, after activation, must remain activated when subsequently subjected to shock forces in any direction of up to 50 g and having durations up to 11, +5, −0 milliseconds; or

(3) Activate when subjected to an alternate crash forces, approved by FAA and

(4) Regardless of sensor type, must be capable of being reset by the flightcrew

if activated by any occurrence other than a survivable crash.

(d) The energy supply to each emergency lighting unit must provide the required level of illumination for at least 10 minutes at the critical ambient condition after emergency landing.

(e) If rechargeable batteries are used as the energy supply for the emergency lighting system, the charging circuit must be designed to preclude inadvertent battery discharge into charging circuit faults. If the emergency lighting system does not include a charging circuit, then battery condition monitors are required.

(f) Components of the emergency lighting system, including batteries, wiring relays, lamps, and switches must be capable of normal operation after having been subjected to the inertia forces listed in § 23.561(b).

(g) The emergency lighting system must be designed so that a single probable failure, or probably system damage following a survivable crash, will not render the entire emergency lighting system inoperative. Single transverse vertical separation of the fuselage is considered a probable event during a survivable crash. The minimum emergency illumination, after a single probable failure, must be specified by the applicant and during an emergency evacuation demonstration the maximum emergency illumination must be equal to or less than the specified level.

Issued in Kansas City, Missouri, on March 12, 1987.

Donald J. Schneider,

Acting Director Central Region.

[FR Doc. 87-6923 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Parts 21 and 23

[Docket No. 034CE, Notice No. 23-ACE-31]

Special Conditions; Fairchild Model SA227-AC Airplanes [Type Certificate No. A8SW], Incorporating Emergency Lighting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fairchild Aircraft Corporation Model SA227-AC Airplanes incorporating an emergency lighting system as an aid for emergency evacuation. The applicable requirements for these airplanes do not contain adequate or appropriate safety standards for these systems. These proposed special conditions contain the additional airworthiness standards which the Administrator finds necessary to establish a level of safety equivalent to the airworthiness standards applicable to these airplanes.

DATE: Comments must be received on or before April 30, 1987.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 034CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 034CE Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified in this notice will be considered by the Administrator before taking further action on these proposals. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available in the rules docket for examination by interested persons both before and after the closing date for submission of comments.

Type Certification Basis

The type certification basis for the Fairchild Aircraft Corporation Model SA227-AC Airplane is as follows: Part 23 of the Federal Aviation Regulations, effective February 1, 1965, as amended by Amendments 23-1 through 23-6; § 23.175(d) amended by Amendment 23-14, effective December 20, 1973; Special Conditions outlined in FAA letters dated November 19, 1965, August 19, 1967, February 5, 1968, and April 4, 1968; SFAR 23; Amendment B of SFAR No. 41, including paragraph 4(c) and the compartment interior requirements of § 25.853 (a), (b), (b-1), (b-2), and (b-3) effective September 26, 1978; Part 36, Appendix F, effective December 1, 1969, as amended by Amendments 36-1 through 36-6; special conditions number 23-ACE-15, effective October 1, 1986 and the special conditions that may result from this proposal.

Background

On August 6, 1986, Fairchild Aircraft Corporation, Post Office Box 32486, San Antonio, Texas 78284, made application to the FAA for approval of type design changes necessary to incorporate an emergency lighting system on the Fairchild Aircraft Corporation Model SA227 Series Airplane.

Fairchild Aircraft Corporation has certified a 19-place airplane which complies with SFAR 41 and incorporates three window exits and a main cabin door for egress from the airplane. Fairchild proposes to change the interior configuration such that one window emergency exit is eliminated and passenger capacity is decreased from 19 to 10-12. Fairchild Aircraft Corporation proposes to install an emergency lighting system for use during emergency evacuation. Since the airplane certification basis includes SFAR-41, an emergency evacuation demonstration is required, but an emergency lighting system is not required.

Past emergency evacuation demonstrations on these airplanes have shown that the most critical aspect of the evacuation is for the passengers to find the location of emergency exits. The passenger cabin length is approximately 25 feet with the entrance door at one end of the cabin and the window exits about in the middle of the cabin.

Discussion

The installation of emergency lighting systems in small airplanes was not envisioned when the applicable requirements for the subject airplanes were promulgated.

Special conditions may be issued and amended, as necessary, as a part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with § 21.101(b)(2) do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane. Special conditions, as appropriate, are issued in accordance with § 11.49 after public notice, as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

An emergency evacuation demonstration is required for the

affected airplanes. The applicable requirements do not contain a requirement for emergency lighting to aid in emergency evacuation, nor do these requirements include design criteria should the applicant choose to include such features. If Fairchild Aircraft Corporation chooses to install emergency lighting in the Model SA227 Series Airplane in order to improve emergency evacuation, and use such lighting during the required evacuation demonstration, appropriate standards should be adopted.

Because emergency lighting is not required, when an applicant chooses to provide such lighting, the FAA must evaluate such lighting relative to its intended function. If that intended function would affect the showing of compliance with an existing requirement, the FAA must assure that the additional system performs its function when the critical event occurs, in this case, an actual emergency evacuation. The FAA concluded that specific criteria is necessary.

Experience with such systems in other categories of airplanes leads the FAA to conclude a source of emergency lighting may be proposed that is common to the normal airplane lighting system. Due to the routine use of the normal lighting system, both in flight and on the ground, the source of energy for the emergency lighting system could be depleted if it were available for routine operations. Because the normal electrical system could be deactivated during emergencies, a source of energy for the emergency lighting system must be available that is independent of the source for the normal lighting system.

In a survivable crash, the cockpit crew may be disabled and unable to turn on the emergency lights. Therefore, in addition to having cockpit controls for turning on the lights, a control must also be available in the cockpit to arm the emergency light system. To assure activation of the emergency lighting system, automatic activation must occur when the engine-driven electrical generator power is lost or an impact sensor must be provided to turn the armed system on.

The emergency lighting system should only be armed during flight operations. Because crew action is required to arm the system, there must be a caution light to alert the crew if normal electrical power is on in the airplane and the emergency lighting system is not armed.

Emergency evacuation must be demonstrated and accomplished in 90 seconds or less; however, in a survivable crash where injuries occur, significantly longer evacuation times may be necessary. Therefore, the energy supply for the emergency light energy must be adequate for ten minutes.

Common practice is to use rechargeable batteries, but non-rechargeable batteries may be used. Regardless of which type battery is used, the design must provide warning of charging circuit faults or inadequate battery charge.

The emergency lighting system must be functional after being subjected to the inertia forces expected in a survivable crash. Those forces are set forth in § 23.561(b).

During a survivable crash, various modes of system damage will occur, up to and including single transverse vertical separation of fuselage. Any such single occurrence must not render the total emergency lighting system inoperative.

The minimum level of illumination is optional because providing any lighting at all is optional. However, the maximum illumination used during the emergency evacuation demonstration must be the minimum available after any single probable failure.

The FAA has considered the features proposed by Fairchild Aircraft Corporation for the emergency lighting installation in the Fairchild Model SA227 Series Airplanes and has concluded that, notwithstanding the existing requirements applicable to these airplanes which did not envision the use of such systems, special conditions should be promulgated for such systems, in addition to the applicable requirements, that will provide the necessary level of safety. Accordingly, special conditions are proposed.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety.

The authority citation for these Special Conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.29(b).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration proposes the following special conditions as a part of the type certification basis for the Fairchild Aircraft Corporation Model SA227-AC Airplanes when equipped with an emergency lighting system intended for use during emergency evacuation of the affected airplanes.

Emergency Lighting

1. If an emergency lighting system is installed and used as an aid in showing compliance with any applicable regulatory requirement, including emergency evacuation demonstrations, the following special conditions apply:

(a) The source of illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(b) There must be a caution light which illuminates in the cockpit when power is on in the airplane and the emergency lighting control device is not armed.

(c) The emergency lights must be operable manually from the flightcrew station and be provided with automatic activation. The cockpit control device must have an "on", "off", and "armed" position so that, when armed in the cockpit, the lights will operate by automatic activation. For automatic activation of the system, the sensor must

(1) Activate when engine-driven electrical generator power is lost, or

(2) Activate when subjected to a force of 5.0, +2, −0 g. and greater for a duration of 11, +5, −0 milliseconds and greater in the direction of the longitudinal axis of the airplane; must not be activated under conditions less severe; and, after activation, must remain activated when subsequently subjected to shock forces in any direction of up to 50 g and having durations up to 11, +5, −0 milliseconds; or

(3) Activate when subjected to an alternate crash forces, approved by FAA and

(4) Regardless of sensor type, must be capable of being reset by the flightcrew if activated by any occurrence other than a survivable crash.

(d) The energy supply to each emergency lighting unit must provide the required level of illumination for at least 10 minutes at the critical ambient condition after emergency landing.

(e) If rechargeable batteries are used as the energy supply for the emergency lighting system, the charging circuit must be designed to preclude inadvertent battery discharge into charging circuit faults. If the emergency lighting system does not include a charging circuit, then battery condition monitors are required.

(f) Components of the emergency lighting system, including batteries, wiring relays, lamps, and switches must be capable of normal operation after having been subjected to the inertia forces listed in § 23.561(b).

(g) The emergency lighting system must be designed so that a single probable failure, or probable system damage following a survivable crash, will not render the entire emergency lighting system inoperative. Single transverse vertical separation of the fuselage is considered a probable event during a survivable crash. The minimum emergency illumination, after a single probable failure, must be specified by the applicant and during an emergency evacuation demonstration the maximum emergency illumination must be equal to or less than the specified level.

Issued in Kansas City, Missouri on March 12, 1987.

Donald J. Schneider,

Acting Director, Central Region.

[FR Doc. 87-6922 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 87-NM-22-AD]

Airworthiness Directives; Boeing Models 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain Boeing Models 727 and 737 series airplanes, which currently requires either incorporation of an electrical ground fault protection system or replacement of the hydraulic pumps with new or upgraded hydraulic pumps. This action would require reinstating the visual inspection and pressure check of the case drain system which was inadvertently omitted from the AD when it superseded an earlier AD on the same subject.

DATES: Comments must be received no later than April 20, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-22-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Habbestad, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-1942. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-22-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: On December 19, 1986, FAA issued AD 87-02-05, Amendment 39-5501 (51 FR 47209; December 31, 1986), to require either incorporation of an electrical ground fault protection system or replacement of certain hydraulic pumps with new or improved hydraulic pumps. AD 87-02-05 superseded AD 76-22-08, Amdt. 39-2762, which required repetitive inspections and pressure tests of the cavity drain system components until a ground fault protection was incorporated into the hydraulic pump electrical wiring.

Since issuance of AD 87-02-05, it was discovered that the requirement of AD 76-22-08 to accomplish periodic visual inspections of the fuel cavity drain system for the Models 727 and 737 series airplanes, and the pressure leak check of those components on the Model 727, had inadvertently been omitted from AD 87-02-05. The FAA has determined that it is necessary to continue these inspections and tests until the hydraulic pumps are replaced or the ground fault protection system is installed in accordance with AD 87-02-05 to prevent a fire caused by a burn-through failure of a pump in the presence of flammable liquids.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require reinstating the visual inspections and pressure leakage checks that were required by AD 76-22-08.

It is estimated that 186 Model 727 and 94 Model 737 airplanes of U.S. registry would be affected by this AD; that it would take approximately 5 manhours per Model 727 series airplane, and 1 manhour per Model 737 series airplane to accomplish the required actions; and that the average labor cost would be $40 per manhour. Based on these figures, the total additional cost impact of the AD on U.S. operators is estimated to be $39,200 for Model 727 series airplanes and $3,760 for Model 737 series airplanes.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Models 727 and 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 87-02-05, Amendment 39-5501 (51 FR 47209; December 31, 1986), to read as follows:

Boeing: Applies to Boeing Models 727, 737-100, and 737-200 series airplanes, equipped with hydraulic system "B" Abex P/N 57186 pump motor, certificated in any category. Compliance required as indicated unless previously accomplished.

To prevent a hydraulic system "B" Abex P/N 57186 pump motor internal wiring fault from burning a hole in the case and igniting the escaping hydraulic fluid, which could ignite fuel leakage, accomplish the following:

A. Within the next 300 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 1,000 hours, unless already accomplished, accomplish 1. or 2., as applicable:

1. Perform a visual inspection of the cavity drain system components in the left wing-body fairing area for fuel leakage in all Model 727 series airplanes in accordance with Boeing Service Bulletin 727-29-A52, dated October 22, 1976, or later FAA-approved revision. Any evidence of leakage or conditions that could lead to leakage, must be corrected prior to further flight in accordance with approved maintenance procedures.

2. Perform a visual inspection of all fuel system components and associated plumbing installed in the main wheel wells of all Model 737 series airplanes in accordance with Boeing Service Bulletin 737-29-A1033 dated October 22, 1976, or later FAA-approved revisions. Inspect for evidence of leakage, damage and security of installations. Any evidence of leakage or conditions that could lead to leakage, must be corrected prior to further flight in accordance with approved maintenance procedures.

B. Within the next 1000 hours after the effective date of this AD, and thereafter at intervals not to exceed 1000 hours, accomplish a pressure leakage check of cavity drain system components in the left wing-body fairing area in all Model 727 series airplanes in accordance with Boeing Service Bulletin 727-29-A52, dated October 22, 1976, or later FAA-approved revisions.

C. Prior to February 2, 1988, either:

1. Install the ground fault protection systems in the hydraulic system "B" Abex pump motor electric power circuits in accordance with Boeing Service Bulletin 727-29-47, Revision 2, dated October 8, 1976, or 737-29-1029, Revision 2, dated October 1976, as applicable, or later FAA-approved revisions; or

2. Install the hydraulic "B" system motor driven pumps, either new or upgraded, in accordance with Boeing Service Bulletin 727-29-55 dated April 30, 1980, or 737-29-1036 dated April 30, 1980, or later FAA-approved revisions.

This action terminates the repetitive inspection requirements of paragraphs A. and B., above.

D. An alternate means of compliance or adjustment of compliance time, which provide an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on March 20, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-6920 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 87-NM-21-AD]

Airworthiness Directives; Lockheed-Georgia Company Model 1329 Series Airplanes (JetStar), Equipped With an Auxiliary Power Unit (APU) in Accordance With STC SA1043WE or STC SA3297WE; and Israel Aircraft Industries Aero Commander Model 1121 Series Airplanes, Equipped With an APU in Accordance With STC SA1356WE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Lockheed Model 1329 series airplanes, equipped with an Auxiliary Power Unit (APU) in accordance with STC SA1043WE or STC SA3297WE, and to Israel Aircraft Industries Aero Commander Model 1121 series airplanes, equipped with an APU in accordance with STC SA1356WE, which would require installation of fuel line shrouds and associated drains. This proposal is prompted by reports of several incidents of ingestion of fuel vapors into the compressor of the APU. This condition, if not corrected, could lead to fuel fumes entering the cockpit and passenger compartment through the APU air inlet and air conditioning system from APU fuel leaks in the APU compartment.

DATES: Comments must be received no later than May 18, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-21-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from AiResearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045; or Lockheed-Georgia Company, 86 South Cobb Drive, JetStar Customer Support, Dept. 64-26, Zone 668, Marietta, Georgia 30063. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-21-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been at least seven reports of fuel fumes entering the cockpit and passenger compartment through the APU air inlet and air conditioning system from APU fuel leaks in the APU compartment. Five incidents have been due to failures of components on the APU fuel control unit, which have allowed fuel to leak into the APU compartment.

The FAA has reviewed and approved AiResearch Aviation Company Service Bulletin 11.39, Revision A, dated November 20, 1986, which describes the installation of APU fuel line shrouds and associated drains. The shrouds and drains are intended to prevent fuel leaks into the APU compartment.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require the installation of APU fuel line shrouds and associated drains in accordance with the service bulletin previously mentioned.

It is estimated that 83 airplanes of U.S. registry would be affected by this AD, that it would take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. It is estimated that the cost of parts is $2178 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $287,014.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($3458). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Lockheed-Georgia Company and Israel Aircraft Industries: Applies to Lockheed JetStar Model 1329 and Model 1329-25 series airplanes, equipped with AiResearch Aviation Company Model 30-92 APU in accordance with STC SA1043WE or STC SA3297WE; and to Israel Aircraft Aero Commander Model 1121 series airplanes, equipped with the AiResearch Aviation Company Model 30-92 APU in accordance with STC SA1356WE, certificated in any category.

Compliance required as indicated, unless previously accomplished.

To minimize the potential for fuel fumes entering the cockpit and passsenger compartment, accomplish the following:

A. Within the next 600 hours time-in-service or 12 months after the effective date of this AD, whichever occurs earlier, install fuel line shrouds and associated drains in accordance with the accomplishment instructions of AiResearch Aviation Company Service Bulletin No. 11.39, Revision A, dated November 20, 1986, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Lockheed-Georgia Company, 86 South Cobb Drive, JetStar Customer Support, Dept. 64-25, Zone 668, Marietta, Georgia 30063; or AiResearch Aviation Company, Customer Support Department, 6201 West Imperial Highway, Los Angeles, California 90045. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on March 19, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-6921 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-ASW-5]

Proposed Amendment of Transition Area; Graham, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise a transition area at Graham, TX. The intended effect of the proposed action is to provide necessary controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Graham Municipal Airport. This action is necessary since the nondirectional radio beacon (NDB) is being relocated and additional airspace is needed to encompass the new SIAP. This proposal would increase the amount of controlled airspace at and above 700 feet around the Graham Municipal Airport to accommodate the types of aircraft now utilizing the airport under instrument flight rules (IFR) conditions.

DATE: Comments must be received on or before May 6, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwast Region, Docket No. 87-ASW-5, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101.

The official docket may be examined, in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, TX.

An informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Robert P. Wheeler, Airspace and Procedures Branch, ASW-534, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 624-5561.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments

are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ASW-5."

The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Forth Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concened with this relemaking will be filed in the docket.

Availability of NPRM'S

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the existing 700-foot transition area at Graham, TX. To enhance airport usage, a new SIAP is being developed for the Graham Municipal Airport, utilizing the relocated Graham NDB as a navigational aid. The development of a new SIAP, based on this relocated navigational aid, entails revision of the existing transition area at Graham, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control services. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routing amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Graham, TX [Revised]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Graham Municipal Airport (latitude 33°06'38" N., longitude 98°33'16" W.).

Issued in Fort Worth, TX, on March 17, 1987.

Larry L. Craig,

Assistant Manager, Air Traffic Division, Southwest Region.

[FR Doc. 87-6924 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance Benefits; Recovery of Overpayments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: In this proposed rule we expand the definition of what we consider to be "against equity and good conscience" in deciding whether or not to recover an overpayment of Social Security benefits from a contingently liable individual to include the situation where the contingently liable individual was living in a separate household from the overpaid individual at the time of the overpayment. A contingently liable individual is one who is entitled to benefits on the same earnings record as the individual who actually received the overpayment of benefits. The new definition would provide a more liberal policy for waiving overpayments under certain conditions.

DATE: We will consider your comments if we received them no later than May 29, 1987.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Duane Heaton, Office of Regulations, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7951.

SUPPLEMENTARY INFORMATION:

General

Section 204(b) of the Social Security Act (the Act) provides that the Social Security Administration (SSA) shall not adjust benefits or make recovery because of an overpayment from any individual who is without fault if adjustment or recovery from the individual would defeat the purpose of the title or be against equity and good conscience. Section 204(a) directs us to

issue regulations regarding our overpayment and underpayment policies.

Our current regulations, § 404.509, define "against equity and good conscience." In addition, there are examples of how we apply the definition in making determinations on requests to waive recovery of overpayments. Our policy, as contained in the definition of "against equity and good conscience", provides that recovery of an overpayment will be considered inequitable if an individual who is without fault, as defined in § 404.510, relinquished a valuable right or changed his or her position for the worse because of a notice that we would make payment or because of the actual payment. The individual's financial circumstances are irrelevant to our determination of whether recovery would be against equity and good conscience. Those circumstances are considered, however, in determining whether recovery would defeat the purpose of the title (see § 404.508).

We hold the overpaid individual as primarily liable for repayment of the overpayment. If we are unable to obtain repayment from the primarily liable individual, we then seek recovery by withholding benefits due from any other individual entitled to benefits on the same record of earnings as the overpaid individual. These other individuals are considered contingently liable.

Beneficiaries and others have pointed out to us that contingently liable individuals living in separate households usually have little or no contact with the overpaid individual or that individual's household. As a result, they often do not know the cause or amount of the overpayment. (Some contingently liable individuals do not learn of the overpayment and their liability until they file for benefits years later.) Additionally, they probably do not derive financial benefit from the overpayment amounts because they lived in a separate household from the overpaid individual at the time the overpayment was made.

We agree with the comments that our current policy of recovering an overpayment from a contingently liable individual who lived in a separate household at the time the overpayment was made should be changed.

For the reasons stated above, we propose to expand the definition at § 404.509 of "against equity and good conscience" in recovery of an overpayment to include a contingently liable individual living in a separate household at the time of the overpayment. In addition, we will add an example (example 4) of a contingently liable individual who is granted waiver of recovery of an overpayment because the individual is without fault and did not live in the same household as the overpaid individual at the time of the overpayment.

In addition to the expanded definition and the new example, we have deleted one example that is not longer correct due to statutory changes affecting entitlement and, after editing the remaining examples to reorder or make them clearer, reprinted them for ease of updating.

Executive Order 12291

These proposed regulations would change the definition of what we consider to be "against equity and good conscience" in recovering an overpayment. The new definition would implement a more in recovering an overpayment. The new definition would implement a more equitable policy of waiving recovery of overpayments under certain conditions. We estimate the cost to be minor (less than $4 million per year). Therefore, these regulations do not meet the criteria specified in Executive Order 12291 for a major rule and regulatory impact analysis is not required.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements necessitating clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these regulations affect only benefit amounts payable to individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act of 1980, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.082—Social Security Disability Insurance; 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors' Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors and disability insurance.

Dated: August 18, 1986.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 22, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—[AMENDED]

For the reasons set out in the preamble, Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 404, Subpart F is revised to read as follows:

Authority: Secs. 204, 205, 227, and 1102, Social Security Act; 49 Stat. 624, 53 Stat. 1368, 79 Stat. 379, 49 Stat. 647, 67 Stat. 18, 631; sec. 5, Reorganization Plan No. 1 of 1953; 42 U.S.C. 404, 405, 427, 1302.

2. Section 404.509 is revised to read as follows:

§ 404.509 Against equity and good conscience; defined.

(a) Recovery of an incorrect payment is "against equity and good conscience" (under title II and title XVIII) if an individual—

(1) Changed his or her position for the worse (Example (1)) or relinquished a valuable right (Examples (2) and (3)) because of reliance upon a notice that a payment would be made or because of the incorrect payment itself; or

(2) Was living in a separate household from the overpaid person at the time of the overpayment and derived no benefit from the overpayment (Example (4)).

(b) The individual's financial circumstances are not material to a finding of against equity and good conscience.

Example 1. A widow, having been awarded benefits for herself and daughter, entered her daughter in private school because the monthly benefits made this possible. After the widow and her daughter received payments for almost a year, the deceased worker was found to be not insured and all payments to the widow and child were incorrect. The widow has no other funds with which to pay the daughter's private school expenses. Having entered the daughter in private school and thus incurred a financial obligation toward which the benefits had been applied, she was in a worse position financially than if she and her daughter had never been entitled to benefits. In this situation, the recovery of the payments would be inequitable.

Example 2. After being awarded old-age insurance benefits, an individual resigned from employment on the assumption he would receive regular monthly benefit payments. It was discovered 3 years later

that (due to a Social Security Administration error) his award was erroneous because he did not have the required insured status. Due to his age, the individual was unable to get his job back and could not get any other employment. In this situation, recovery of the overpayments would be against equity and good conscience because the individual gave up a valuable right.

Example 3. In June 1985, H filed for hospital insurance benefits and submitted evidence, which he believed was correct, showing he was 65 years old. He was subsequently notified that he was entitled to hospital insurance coverage effective July 1, 1985. At the same time, H was notified that he was entitled to monthly Social Security benefits, but because he was working regularly and earning in excess of $20,000 a year, no payment would be made until his work status changed. On the basis of the notice of entitlement to hospital insurance coverage, H allowed his private insurance policy, which provided for full reimbursement of hospital expenses in each calendar year, to lapse as of July 1, 1985. In August 1985, H was an inpatient at a hospital for 20 days and incurred $4,500 of hospital expenses. For the services received by H, the hospital was paid $4,100 ($4,500 minus the $400 deductible) under the hospital insurance program. Later that year, H became aware of and submitted other evidence showing beyond doubt that he was 63 years old in August 1985. Based on this new evidence, the Social Security Administration determined that H was not entitled under the hospital insurance program and the hospital had been incurrectly paid $4,100 (no monthly benefits had been paid). With respect to H's liability for the incorrect payment of $4,100, unless waiver applied, this amount would be adjusted against futue payment (if any) of monthly Social Security or Railroad Retirement benefits or would be recovered from H. Under the facts presented, however, adjustment or recovery of the incorrect payment from H is considered against equity and good conscience because in reliance on the award notice advising him of his entitlement to hospital insurance coverage, H relinquished a valuable right when he allowed his private health insurance to lapse.

Example 4. M divorced K and married L. M died a few years later. When K files for benefits as a surviving divorced widow, she learns that L had been overpaid $3,200 also on M's earnings record. Because K is receiving benefits on the same record of earnings, K is contingently liable. K was living in a separate household from L at the time of the overpayment and derived no benefit from the overpayment. K requests waiver of recovery of the $3,200 overpayment from benefits due her. In this situation, it would be against equity and good conscience to recover the overpayment from K.

[FR Doc. 87-6902 Filed 3-27-87; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-168-86]

Capitalization and Inclusion in Inventory of Certain Costs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to accounting for production costs incurred in producing property and acquiring property for resale. Changes to the applicable tax law were made by the Tax Reform Act of 1986. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered by May 29, 1987. In general, the amendments are proposed to be effective for costs incurred after December 31, 1986.

ADDRESS: Send comments and requests for public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-168-86) Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Paulette C. Galanko of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20334 (Attention: CC:LR:T), (202) 566-3288, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations (designated by a "T" following the section citation) in the Rules and Regulations portion of this issue of the **Federal Register** amend Part 1 of Title 26 of the Code of Federal Regulations. These amendments are proposed to conform the regulations to the requirements of section 803 of the Tax Reform Act of 1986 (Pub. L. 99-514), 100 Stat. 2085. For the text of the temporary regulations, see FR Doc. 87-6720 (T.D. 8131) published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations provides a discussion of the rules. The final regulations, which this document proposes to base on those temporary regulations, would amend Part 1 of Title 26 of the Code of Federal Regulations.

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although this document is a notice of proposed rulemaking that solicits public comments, the Internal Revenue Service has concluded that the regulations propose herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted comments. If a public hearing is held, Notice of the time and place will be published in the **Federal Register**.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Drafting Information

The principal author of these regulations is Paulette C. Galanko of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation on matters of both substance and style.

List of Subject in 26 CFR 1.441–1–1.483–2

Income taxes, Accounting, Deferred compensation plans.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87–6721 Filed 3–24–87; 3:17 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 71

[Docket No. 6 Notice No. 87–7]

Standard Time Zone Boundary in the State of Indiana; Termination of Rulemaking

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Withdrawal of proposal and termination of rulemaking.

SUMMARY: The Department is withdrawing a proposal to relocate the boundary between eastern and central time in the State of Indiana, which would have moved Starke and Jasper counties from the central time zone to the eastern time zone. Making the change would not have satisfied the primary statutory standard of "the convenience of commerce."

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street SW., Room 10424, Washington, DC 20590. (202) 366–9306.

SUPPLEMENTARY INFORMATION:

Background

Under the Standard Time Act of 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–64), the Secretary of Transportation has authority to issue regulations modifying the boundaries between time zones in the United States in order to move an area from one time zone to another. The standard in the statute for such decisions is "regard for the convenience of commerce and the existing junction points and division points of common carriers engaged in interstate or foreign commerce."

Time observance in Indiana: current situation. The State of Indiana is unique in the pattern of its observance of standard time and daylight saving time. Although twelve other States are in two time zones, only Indiana has three distinct areas of time observance. In the northwest near Chicago, Illinois, and including the cities of Gary and Hammond, Indiana, are six Indiana counties in the central zone. They include Starke and Jasper counties, the subjects of this action. In the southwest, including Evansville, Indiana, but not touching the six northwestern counties, are five counties in the central zone. The rest of the state (81 counties) is in the eastern zone, including the area between the two central zone areas.

To compound the uniqueness of time observance in Indiana, the state has an exemption from daylight saving time for the eastern time zone portion. As a consequence, during the period of the year when DST is in effect, despite the difference in time zones, the entire state observes a uniform clock time.

Time observance in Indiana: history. The appropriate time zone for Indiana has been the subject of much debate since time zones were first established. When time zones were first adopted by the Federal Government in 1918, all of Indiana was in the central zone. In 1961, the Interstate Commerce Commission (DOT's predecessor in this regard) moved the eastern half of the State (including Indianapolis, the capital) to the eastern zone, but denied requests to include more of the state in eastern time.

In 1967, DOT proposed to rescind the ICC action and restore the entire State to central time. That proposal—issued at the request of the Governor of Indiana—was overwhelmingly unpopular with the people of Indiana. Consequently, in 1968, DOT amended its 1967 proposal by proposing to include in the eastern zone all of the state except six counties in the northwest near Chicago, Illinois, and seven counties in the southwest. That amended proposal met with great support, with one modification: there was support for leaving only six of the southwestern counties in the central zone. Effective April 27, 1969, therefore, all of the State was put in the eastern zone except six in the northwest and six in the southwest.

In 1977, at the requst of the Board of County Commissioners of Pike County, one of the six southwestern counties in the central zone, DOT conducted a proceeding similar to this one that resulted in Pike County being moved from central to eastern time. In 1981, at the request of the Board of County Commissioners of Starke County, DOT conducted a proceeding similar to this one, but decided at the end of the proceeding not to move Starke County from central to eastern time. In 1985, the Department rejected a request from the remaining 5 central time zone counties in southwestern Indiana to be moved into the eastern time zone.

Impact on observance of daylight saving time. The relationship between time zone boundaries and the observance (or nonobservance) of daylight saving time can sometimes be confusing. One comment to the docket in this proceeding, for example, said that the commenter wanted daylight time, not central time. It should be emphasized that this proceeding concerns only whether the eastern/central time zone boundary should be moved. The application of daylight saving time within the State of Indiana is not at issue.

The proposals. The Board of County Commissioners of Starke County and the Board of County Commissioners of Jasper County made separate, formal requests to the Department of Transportation to move each county from central to eastern time. The Department determined that these proposals made a *prima facie* case for opening a proceeding to determine whether the changes should be made. The Department published a notice of proposed rulemaking (NPRM) on this subject on December 3, 1986 (51 FR 43644) and held public hearings in Starke and Jasper counties on January 6 and 7, 1987. The Department received approximately 400 comments on the proposal, and a total of 50 persons spoke at the two public hearings.

Starke County

Comments

Public sentiment in Starke County appears to be rather evenly divided on whether it makes more sense for the county to be in the eastern or the central time zone. Of the 66 written comments the Department received concerning Starke County, 33 favored central time and 33 favored eastern time. Both proponents and opponents of the time zone change included petitions signed by local residents with their submissions. A majority of the petition signatures oppose the proposed change. Of the 14 persons who spoke at the Starke County hearing, nine favored eastern time and five favored central time.

The principal arguments made by proponents of changing the county to eastern time were the following:

- County residents do not commute to jobs in the Chicago, Gary, and other central time areas to the extent that they used to. Rather, commuting patterns now take county residents to St. Joseph and Pulaski counties and the South Bend area, which are in the eastern time zone.
- Most of the rest of the state, and particularly the state capital, Indianapolis, is on eastern time. It would be beneficial for the county to be on the same time zone as most of the

rest of the state. For state and local government offices in Starke County (as well as for some Federal officies, like the Postal Service), it would reduce confusion and ease communications with government offices in Indianapolis if the county were on eastern time.

• Many businesses have suppliers or customers primarily in the eastern time zone. It would make customer service, deliveries, and other commercial relationships easier if the county were on eastern time. Some professional services (e.g., medical specialists) are more readily available in South Bend than in central time areas.

• Television stations in South Bend are more relevant for Starke County viewers than are Chicago stations.

• Changing to eastern time would permit the county to remain on standard time all year round, which is desirable for people who don't like to change their clocks in April and October.

• Supporters of changing to eastern time argue that the change would not have an adverse effect on farm work or schoolchildren's safety.

• An official of Ancilla College in Marshall County, an eastern time zone jurisdiction adjacent to Starke County, said the schedules of her institution's Starke County students and their families are complicated by the difference in time zones.

The principal arguments made by those persons who favored remaining on central time were the following:

• Changing to eastern time would mean that schoolchildren would have to go to school in the dark in the morning, increasing safety risks.

• Most commuters still go to central time zone areas to work. The county judge and court commissioner presented information derived from jury rolls that showed that of Starke County residents in their jury records who commuted out of the county in recent years, over 75 percent still went to work in central time zone areas.

• Most of the actions transferred into the county court from other jurisdictions under Indiana's change of venue statute come from central times areas. Changing the county's time zone would complicate court scheduling significantly.

• More people watch Chicago TV than South Bend TV; in any event, it is more convenient to watch South Bend TV while our own clocks are on central time (e.g., 11:00 news comes on at 10:00).

• There are as many business and professional relationships with central time as with eastern time areas.

• People are more likely to go shopping at malls in central time areas than to go to South Bend or other eastern time zone areas for this purpose.

• While there is some inconvenience for people attending Ancilla College in the current situation, as many people go to a Purdue University branch in a central time area. They would be inconvenienced if the time were changed.

In addition to these comments, there was a petition signed by approximately 600 persons, most of them from Starke County, who said that they wanted the entire State of Indiana to be in the central time zone, with year-round daylight saving time. Time zones should be by states, not counties, the peitition said.

The people signing this petition clearly did not favor putting Starke County on eastern time. It is beyond the scope of this proceeding to consider any action having statewide effect, however. To be considered by the Department, any request to realign the State of Indiana's time zones so that the entire state was in the central time zone would have to come from the state government level.

Discussion and Decision

In 1981, Starke County petitioned the Department to move the county from the central to the eastern time zone. In an October 16, 1981, decision, the Department denied the petition. The primary reason for this decision was that commuting patterns for county residents were such that far more commuters would be inconvenienced by changing the county to eastern time than would be helped by making the change. Because the principal commuting direction for Starke County residents was from the county to central time areas, the Department concluded, it would not serve the convenience of commerce to move the county into the eastern time zone.

Proponents of the current petition to move Starke County into the eastern time zone alleged that, because of declining employment opportunities in heavy industry in the Illinois/Indiana "rust belt," these commuting patterns had changed. More commuters, they said, now went to eastern time zone areas.

While several commenters said that it was their impression that this shift in commuting patterns had taken place, they were unable to present any statistical evidence on the point. The 1980 census data relied upon in the Department's 1981 Starke County remain the most recent comprehensive data relevant to this issue. The jury statistics presented by the court commissioner, while not as comprehensive or conclusive as census data or state employment statistics, were the only post-1981 data presented to the Department. This information indicated that commuting patterns had not changed significantly since the Department's 1981 decision.

The Department regards the proponents' case for there having been a shift in employment and commuting patterns as unproven. Consequently, the main basis for the Department's 1981 conclusion that the proposed shift of Starke County to eastern time would not serve the convenience of commerce remains valid.

The Department does not believe that opponents' concerns about the effect of making the time zone change on the safety of school transportation for children are well-founded. As the Department pointed out in the 1981 decision concerning Starke County, schoolbus pickups in rural areas tend to be at the children's homes. Second, nearby eastern zone counties already have a very similar time/light situation for morning pickups to what Starke County would have if it moved to the eastern time zone. These counties do not appear to have experienced unusual safety problems in morning school transportation related to the time when it gets light outside.

The Department regards the other arguments by opponents and proponents of the change as inconclusive. Making the change would reduce inconvenience for some individuals, businesses, educational institutions and government offices. The change would create greater inconvenience for others. Living near a time zone border always creates inconvenience, which the Department cannot eliminate by shifting a jurisdication from one time zone to another. The close division of opinion among commenters on the Starke County petition appears to reflect a rather even balance of inconvenience, on issues other than commuting patterns, between the merits of leaving the county in the central zone or moving it to the eastern zone. These arguments do not lead to a conclusion that the convenience of commerce would be, on the whole, better served by granting the county's petition than by denying it.

For these reasons, the Department concludes that it would not serve the convenience of commerce to grant the petition to move Starke County into the eastern time zone. The county's petition is therefore denied, and the rulemaking with respect to Starke County is terminated.

Jasper County

Comments

In contrast to the situation in Starke County, comments relating to the proposed time zone change in Jasper County were not evenly divided. Among the written comments, 39 favored moving the county to eastern time, while 273 opposed the change. The comments of both proponents and opponents included petitions signed by numbers of local residents. The opponents of the change obtained many more petition signatures for their positions, including one petition with over 2000 signatures. Of the 36 individuals who spoke at the public hearing, 33 opposed the change.

There was a strong geographical pattern evident in the comments. Commenters from the northern part of the county (i.e., DeMotte, Wheatfield and the surrounding area) were almost unanimously against the proposed change. A substantial portion of all negative comments on the proposal came from persons in the northern part of the county. On the other hand, there were few commenters from the southern part of the county (i.e., the Remington area). These commenters appeared not to have strong feelings about the issue, at least in part because many individuals and businesses in this portion of the county appear to observe eastern time on an informal basis, regardless of the official time zone for the county. Most of the support for the proposed change came from the central part of the county (i.e., the Rensselaer area). Even from this part of the county, however, there were nearly as many comments opposing the proposal as favoring it.

Comments favoring moving Jasper County from central to eastern time made the following principal arguments:

- It would be beneficial to put the county on the same time as most of the rest of the state and its capital, Indianapolis. This would be especially helpful for state and local government offices and the Postal Service, which deal principally with offices in Indianapolis or Lafayette.
- Many businesses, at least in the central and southern portions of the county, have their main supply and customer relationships with persons and firms in the eastern time zone areas of the state.
- People in the central and southern part of the county go to Lafayette for shopping and professional services.
- With the opening in a few years of a new Japanese motor vehicle plant in the Lafayette area, work opportunities in the eastern time zone for Jasper county residents will increase.
- St. Joseph's College (a significant employer in the south central part of the county) has its business relationships primarily in the eastern time zone areas of the state, and most of its employees live in eastern time zone areas.

Comments opposing moving Jasper County from the central to the eastern time zone made the following principal arguments:

- Most businesses' supply and marketing relationships, especially in the northern part of the county, are with businesses and individuals located in central time zone areas. For example, a branch bank in DeMotte serves many customers in central time zone counties; many employees at a steam-electric generating plant, the county's largest employer, commute from central time zone areas; another plant with 300 employees reports to a headquarters in Chicago; and grain farmers tend to use elevators in central time zone areas. Many comments from small businesses in the northern part of the county made similar points.
- Most radio and TV stations received are from Chicago and other central time zone areas. There are no TV stations received or same-day newspaper service from Indianapolis.
- 1980 data shows that a significant majority of Jasper County residents who commute to work outside the county commute to the Chicago area and other central time zone locations. This situation still appears to exist, even though there are not updated statistics on the point.
- The northern part of the county is growing economically because it is on the southern fringe of the Chicago exurban area. People and business locate there whose jobs or markets relate to the greater Chicago area. The additional inconvenience of being in the eastern time zone would likely give people incentives to locate in adjacent parts of central time zone counties, harming economic growth in Jasper County.
- The northern part of the county is more populous than the southern part of the county (approximately 18,000 population compared to 10,000). Moving the county to eastern time would, therefore, inconvenience more people than it would help.
- For air transportation, Jasper County residents are much more likely to use Chicago than Indianapolis or Lafayette airports.
- Changing the time zone would create school-related problems. In addition to the concern about children waiting for school buses in the dark, commenters expressed concern about problems in scheduling athletic events and other activities. The change would also complicate life for students (and their families) who go to school in Jasper County but live in nearby central time zone counties.
- There are plenty of stores (e.g., malls in Lake County) and professional services (e.g., emergency medical facilities) in Jasper County and nearby central time zone areas for people to use.
- Lake County lawyers like to move cases to Jasper County courts under the Indiana venue law. This would be less convenient if the time zone were changed.

In addition to the comments for and against making the requested time zone change for the whole county, 13 written comments and four speakers at the hearing favored splitting the county at the school district boundary (with the portion of the county served by the Kankakee Valley School Corporation remaining on central time and the rest of the county being changed to eastern time). This approach, its proponents said, would satisfy the people in the northern end of the county who wanted to stay on central time while giving people in the southern and central part of the county the opportunity to use eastern time.

Nine written comments and one speaker at the hearing opposed this suggestion. Their basic argument was that splitting the county would produce more confusion and inconvenience than leaving it as a unit. This was particularly true, they said, for purposes of the delivery of local government services.

Discussion and Decision

The written comments and hearing statements of persons from the northern part of Jasper County made a convincing case for the proposition that it would ill serve the convenience of commerce to move at least that part of the county from eastern to central time. That the case is convincing is not due solely to the fact that comments from that part of the county were both numerous and virtually unanimous.

The arguments described above concerning economic growth trends, employment and commuting patterns, and business relationships with suppliers and customers were uncontroverted. They suggest strongly that existing commercial patterns, which have bolstered the economy in a portion of Indiana which otherwise has had considerable economic difficulty in recent years, could be disrupted by a time zone change. Even more than the apparently strong personal preferences

of residents of the area to remain on central time, these factors lead to a conclusion that moving the northern part of the county to eastern time would not serve the convenience of commerce. This necessarily implies a decision against moving the entire county into the eastern time zone.

There remains the question of whether it would serve the convenience of commerce to split the county along school district boundary lines. Splitting counties between two different time zones is not unprecedented. At the present time, 11 counties in seven states (none of them in Indiana) are split. The Department concludes that it would not be appropriate to split Jasper County however.

In part, this conclusion is based on the general proposition that it is inadvisable to split governmental jurisdictions, except when there is a compelling reason to do so. Many commenters in both Starke and Jasper counties mentioned their sense that it would be better for everyone concerned if the entire state was in only one time zone; the considerations that underlie that sentiment apply with even greater force to keeping local jurisdictions in one piece for time purposes.

In addition to this general consideration, the Department relies on a number of other factors in deciding not to split the county. First, the Department is persuaded that there is merit in the argument made by commenters that splitting the county would create confusion in the provision of local government services. If the section of the county with the majority of the county's population is on central time, while the county seat and offices are on eastern time, the inconvenience for residents of the northern portion of the county would be substantial. In addition, this situation would probably make it more difficult for county agencies and employees to carry out their functions.

Second, the comments favoring moving even the central and southern portions of the county to the eastern time zone were not compelling. It is true that county offices would benefit from being on the same time as state government offices in Indianapolis, but it is doubtful that this convenience would offset the inconvenience of being in a different time zone from the majority of the county's residents.

Third, businesses and educational institutions in the southern part of the county may, indeed, find it more convenient to be on eastern time. (As mentioned above, a number of commenters mentioned that many businesses and individuals in the Remington area already observe eastern time on an unofficial basis.) On balance, however, the Department believes that the inconvenience caused by splitting the county (including that caused businesses in central and southern Jasper County in dealing with northern Jasper County businesses and individuals and vice-versa in a split county) would outweigh this benefit. The coming of a new Japanese motor vehicle plant to the Lafayette area may influence employment and commuting patterns in the future, but it would not be a good idea to base a decision in this proceeding on speculation about such future effects.

Finally, the views of commenters suggest that there is neither broad nor deep local support for splitting the county. As mentioned above, while virtually all of the support for moving any part of the county into the eastern time zone came from the central and southern part of the county, there were nearly as many comments from those areas opposed to the change as favoring it. A number of the comments from businesses or other organizations counted as favoring eastern time did not strongly express a desire to change. Rather, they simply said that a change, if it came, would not cause problems for them. As also noted above, only a small number of comments explicitly discussed the idea of splitting the county.

For these reasons, the Department concludes that it would not serve the convenience of commerce to grant the petition to move Jasper County into the eastern time zone. The county's petition is therefore denied, and the rulemaking with respect to Jasper County is terminated.

Issued at Washington, DC, this 25th day of March 1987.

Rosalind A. Knapp,

Deputy General Counsel.

[FR Doc. 87-6950 Filed 3-27-87; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 51]

Federal Motor Vehicles Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Termination of Rulemaking.

SUMMARY: This notice announces the agency's decision to retain the automatic restraint requirement for convertibles manufactured after September 1, 1989. NHTSA has concluded that it is reasonable and practicable for manufacturers to install driver-only air bag systems or automatic safety belts in convertibles. One of the primary reasons for the agency's decision is the anticipated wide-spread availability of driver-side air bag systems for passenger cars, including convertibles. The increased availability of air bag systems will be a result of a final rule, published elsewhere in today's **Federal Register**, which amends Standard No. 208, *Occupant Crash Protection*, to provide, until September 1, 1983, that a car meeting the performance requirements in the standard with a non-belt automatic restraint, such as an air bag, for the driver and a manual lap/shoulder belt at the right front passenger seating position will be considered in compliance with Standard No. 208. The increased production of driver-side systems which will result from that rulemaking action will decrease the cost of those systems, thus making it financially easier for manufacturers to install those systems in cars that are produced in low volumes, such as convertibles.

DATE: Petitions for reconsideration must be filed with the agency by April 29, 1987.

ADDRESS: Petitions for reconsideration should refer to the docket and notice numbers of this notice and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Chief, Crashworthiness Division, National Highway Traffic Safety Administration, Room 5320, NRM-12, 400 Seventh Street, SW., Washington, DC 20590 (202-366-2264).

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1984 (49 FR 28962), the Department of Transportation announced its decision on occupant crash protection. The decision provided for the phased-in implementation of an automatic restraint requirement for the front outboard seats in passenger cars, including convertibles, beginning on September 1, 1986, with full implementation to take place on September 1, 1989. The decision also announced that the agency was considering whether to rescind the automatic restraint requirement for convertibles and would specifically

address that issue in a subsequent rulemaking action.

On April 12, 1985 (50 FR 14589), NHTSA published a notice that proposed, among other things, alternative occupant crash protection requirements for convertibles. On October 17, 1986 (51 FR 37028), NHTSA published a final rule that amended Standard No. 208 to provide manufacturers with the option of excluding convertibles from the automatic restraint requirements during the phase-in period. The agency also announced that it would determine, in a separate rulemaking action, whether to retain the automatic restraint requirements for convertibles manufactured on or after September 1, 1989, or whether the agecny should apply a dynamic test requirement to the manual safety belts installed in those vehicles. Subsequent to publication of the October 1986 final rule, seven interested parties filed timely petitions for reconsideration. After reviewing the issues raised by the petitioners, NHTSA has decided to retain the automatic restraint requirement for convertibles manufactured on or after September 1, 1989. The issues raised by the petitioners and the reasons for the agency's decision are discussed below.

Adopt Permanent Exclusion for Convertibles

Six of the petitioners (Chrysler, Ford, Mazda, Rolls-Royce, Toyota, and Volkswagen) requested NHTSA to adopt a permanent exclusion for convertibles from the automatic restraint requirement. In addition, those six petitioners urged the agency to make its decision promptly, saying that vehicle manufacturers need to know the final requirements for convertibles since they are currently making their design decisions for convertibles that will be manufactured after September 1, 1989.

The petitioners raised a number of reasons why the automatic restraint requirement should not be retained for convertibles. Chrysler said that while "an air bag might provide a technical solution for the driver's side, we know of no passive system which can be employed on the passenger side and still retain the open character of the convertible." Ford and Volkswagen said that, based on the information relied on by the agency in the October 1986 final rule, a requirement for automatic restraints in convertibles manufactured after September 1, 1989, would be unreasonable, impracticable, and inappropriate. They referred to the agency's comment in the October 1986 final rule that automatic belts are not reasonable for some models because of the structural changes that would have to be made to attach the upper torso portion of the belt. They also referred to the agency's comment in the same final rule that further research and development work must be accomplished before an effective, low-cost air bag system is available for convertibles. Finally, they also pointed out that the practicability of using "built-in" safety (i.e., the use of interior padding and structural changes to provide protection to unrestrained occupants) in convertibles is uncertain at this time. Ford repeated its prior comment that failure to rescind the September 1, 1989 automatic restraint requirement for convertibles "would likely prevent Ford from offering convertibles in the 1990 model year." Volkswagen also said it might have to discontinue its convertible models if the automatic restraint requirement is retained for those vehicles.

Ford also said that, even a practicable automatic belt system were available, it could not design and tool an automatic belt system in time for the 1990 model year. Ford also said that "to introduce a driver air bag into convertibles built after August 31, 1989, Ford would have to initiate immediately a unique engineering program with engineering resources that do not currently exist within Ford or at key suppliers." Further, Ford said that if it had to divert its limited engineering resources to an accelerated design and development program for convertibles, it would have to delay its long term program to develop passenger-side air bags.

Rolls-Royce said that its convertible is a separate vehicle model and is not a convertible version of its four door sedan. It said that the current exclusion of convertibles from the automatic restraint requirement during the phase-in allows Rolls-Royce to "devote our limited resources to the development and installation of passive restraints in our four door sedans in the short term." Rolls-Royce said it plans to install an air bag system in its convertible models in the future, but it may not be able to develop a driver and passenger-side air bag system for the 1990 model.

Apply Requirement to Convertibles

The Insurance Institute for Highway Safety strongly opposed excluding convertibles manufactured after September 1, 1989, from the automatic restraint requirement. IIHS referred to its prior comments on the convertible issue and said that air bags can be installed in those vehicles. IIHS further said that the use of air bags will not "significantly affect car prices because, by the 1990 model year, they will be produced in large enough quantities to keep their cost reasonable."

Agency Decision

After considering the information provided by the commenters, the agency has decided to retain the automatic restraint requirement for convertibles manufactured on or after September 1, 1989. One primary reason for NHTSA's decision is the anticipated wide-spread availability of driver-side air bag systems for use in convertibles and other passenger cars that will result from another rulemaking action taken today by the agency. To encourage the development of a variety of automatic restraint systems, Standard No. 208 currently provides that a manufacturer that installs a non-belt automatic restraint system, such as an air bag system, at the driver's seating position and a manual lap/shoulder belt at the front right passenger seating position will receive credit for producing one automatic restraint-equipped passenger car ("one car credit") during the phase-in period. In a final rule published elsewhere in today's **Federal Register**, the agency has decided, in response to a petition from the Ford Motor Company, to extend this provision temporarily beyond the phase-in period. That final rule amends Standard No. 208 to provide, until September 1, 1993, that a car meeting the performance requirements in the standard with a non-belt automatic restraint system for the driver and a dynamically-tested manual lap/shoulder belt for the right front passenger will be considered in compliance with Standard No. 208.

At the time of the October 1986 final rule that excluded convertibles from the automatic restraint phase-in requirement, the agency expressed concern about the availability of low cost air bag systems for convertibles. NHTSA said that the cost of air bag systems, particularly when used in low volume installations such as convertibles, could be substantial and thus result in significant increases in the price of convertibles. However, information provided by vehicle manufacturers and suppliers in response to the notice of proposed rulemaking on the one-car credit indicates that the prospects for the wide-spread availability of driver-side air bag systems by September 1, 1989, are now substantially greater. With the anticipated increase in production of driver-only systems, the costs of those systems will decrease. Thus, it will be possible for manufacturers to install driver-side air bag systems in their convertibles without having to

substantially raise the price of those vehicles.

The agency also believes that manufacturers have sufficient time to allocate their resources to provide driver air bag systems for convertibles, if they do not wish to use an automatic safety belt. The basic components used in an air bag system, such as the inflators and crash sensors, are fundamentally the same regardless of whether the components are used in sedans or in convertibles. For example, according to information obtained by the agency, the air bag components used by Mercedes-Benz in its convertibles and sedans are generally interchangeable. Thus, manufacturers should be able to use driver air bag design and development work done for a line of sedan vehicles and be able to apply it in preparing similar installations in its convertible lines.

The agency also has additional information indicating that it is possible to install automatic safety belts in some types of convertibles without having to make significant structural changes, such as the addition of pylons or other vehicle structures, to allow the safety belt to be anchored to the vehicle. Alfa Romeo has presented information to the agency concerning an automatic safety belt system it has developed for its two-seat convertible model. The Alfa Romeo system uses a motorized automatic belt in which the belt is anchored, at the one end, in a motorized track that is located in the vehicle's side door sill. It is anchored at the other end in the center of the floor behind the front seats. The belt runs from those anchorage points through a guide located on the inboard, top side of the front seat. Although it is possible that this system might not be suitable for at least some convertibles with rear seats, it is available for use in other convertibles.

Based on information presented by General Motors in its comments on the proposed one-car credit rule, it appears that "built-in" safety is still not practicable for convertibles or other passenger cars. Although manufacturers may not have the choice of using "built-in" safety at this time, they can use driver-only air bags and automatic belt designs, such as Alfa's. Because of the availability of these automatic restraint alternatives, the agency believes it is appropriate to retain the automatic restraint requirement for those vehicles.

Competition Among Air Bag Suppliers

In commenting on the agency's decision to exclude convertibles from the automatic restraint requirement during the phase-in, Mazda noted that the agency referred to the Breed Corporation's air bag system as one possible system that would reduce the cost of air bags. Mazda criticized the agency for what it termed the "creation and approval of the NHTSA of a monopoly of the air bag market by the Breed Corporation." As discussed below, the Mazda criticism is not accurate.

NHTSA has been engaged in a research effort with the Breed Corporation to explore the use of one type of technology—the use of a mechanical as opposed to an electronic sensor—in air bag systems. NHTSA entered into this research effort since it holds the promise of resulting in an air bag system that is potentially simpler and less costly than current systems. That research, if successful, will not create a monopoly for the Breed Corporation. As shown by a review of the companies that commented on the agency's November 25, 1986 (51 FR 42598) notice of proposed rulemaking on the Ford petition, there are a number of restraint system suppliers, other than Breed, that have been involved in past air bag development programs and are currently involved in new programs to develop new air bag systems. The future availability of those systems, and availability of systems currently being produced by other companies will ensure that there is a competitive market for air bag systems.

Definition of Convertible

In the October 1986 final rule, NHTSA set out the criterion it has used in determining whether a vehicle is a convertible. The agency said that a convertible is a vehicle whose A-pillar or windshield peripheral support is not joined at the top with the B-pillar or another rear roof support rearward of the B-pillar by a fixed rigid structural member. Applying this criterion, the agency said that a vehicle with a so-called "Targa" roof—a roof in which an entire section of the structure over the driver and front seat passenger can be easily removed and replaced by a vehicle owner—would be considered a convertible since it does not have any fixed structural member connecting the tops of the A and B-pillars when the targa roof is removed. However, a vehicle with a T-bar roof—a roof which can be only partially removed by the vehicle's owner—would *not* be considered a convertible since there is a fixed structural member in the vehicle's roof which connects the A and B-pillars when the partial sections of the roof are removed.

In its petition for reconsideration, Toyota requested the agency to exclude T-bar roof vehicles from the automatic restraint requirement. Toyota said that "due to the lack of a door frame or a roof side rail structure, it is impossible to install an automatic belt that is acceptable to customers to the T-bar roof vehicles in view of current technology." Toyota said it will have to discontinue T-bar roof vehicles after September 1, 1989, unless those vehicles are excluded from the automatic restraint requirement.

NHTSA has decided to retain its current interpretation of the term convertible and thus, is not adopting the proposed revision requested by Toyota. As discussed earlier in this notice, driver-side air bags and automatic safety belt systems will be available for use in convertibles. Since those systems are available for convertibles, Toyota and other manufacturers of cars with T-bar roofs can use those same systems to comply with the peformance requirements of the standard.

Cost and Benefits

NHTSA has examined the impacts of this rulemaking action and determined that the action is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has prepared a regulatory evaluation that examines the economic and other impacts of this rulemaking action.

The agency anticipates that most manufacturers initially will choose to install driver-only air bag systems in their convertible models. As discussed earlier in this notice, NHTSA believes that because of the agency's decision to extend temporarily the provision that a car meeting the performance requirements in the standard with a non-belt automatic restraint system for the driver, air bag systems will become readily available in large numbers by the September 1, 1989 effective date. With the increase in air bag production, the cost of the system should decrease significantly. NHTSA estimated that, assuming high volume production, a driver only air bag system will cost from $250 to $350. Thus, installing them in convertibles should not have a significant effect on vehicle prices. As discussed in the agency's regulatory evaluation, the long-term benefits of driver-only air bag systems in convertibles range from 19 to 38 fatalities prevented and from 295 to 533 moderate to serious injuries prevented annually. The agency has also examined the costs and benefits for automatic belt systems. NHTSA estimates that a motorized automatic safety belts would

have a liftime cost of from approximately $290 to $490. The agency also examined the effectiveness of automatic safety using an range of assumed usage rates. At 40 percent usage, automatic safety belts would prevent up to 5 fatalities and 71 moderate to serious injuries. At 70 percent usage, automatic safety belts would save from 21 to 36 lives and prevent from 337 to 562 moderate to serious injuries.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a full regulatory flexibility analysis.

Few, if any, passenger car manufacturers qualify as small entities. Small organizations and government units should not be affected since the number of convertibles purchased by those entities should be small. As discussed below, persons engaged in the business of converting passenger cars from sedans to convertibles may be affected.

Under the agency's certification regulation, a person that alters a previously certified new vehicle must certify that the vehicle, as altered, conforms with all applicable safety standards. The agency has said that when a vehicle is altered from one vehicle type to another, the alterer must certify that the vehicle conforms to the safety standards that apply to the new vehicle type, in this case a convertible. Since the agency has decided to retain the automatic restraint requirement for convertibles, a person converting a new hard-top car into a convertible would have to ensure that the altered car complied with the automatic restraint requirement. If a hard-top vehicle were equipped with automatic safety belts, a converter would have to either find a way to re-install the automatic safety belts or have to install an air bag or other type of automatic restraint system.

The information NHTSA has obtained about the passenger car conversion industry indicates that, at present, there are only a few businesses engaged in large-scale conversions of passengers cars for manufacturers and dealers and the businesses that the agency has identified would not qualify as small businesses. In addition, there may be a number of small businesses that do a few conversions each year. The effect on those businesses will depend on the automatic restraint system installed in the vehicles that they are converting. If the car is equipped with an air bag system, the converter may not have to make any significant changes to the car to ensure that it still complies with the standard. However, if the car has an automatic belt, the converter may have to make more significant structural changes to either re-install the automatic belt or install an air bag system. The converter would also have to do testing or prepare an engineering analysis to show that the converted vehicle complied with the requirements of the standard.

Environmental Effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

(15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.)

Issued on March 25, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-6892 Filed 3-25-87; 4:37 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Ocean Salmon Fisheries off the Coast of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings and request for comments.

SUMMARY: The Pacific Fishery Management Council will hold public hearings on the proposed 1987 ocean salmon fishery management options off the coasts of Washington, Oregon, and California.

DATES: The hearings will begin at 7:00 p.m. on Tuesday, March 31, 1987; Wedenesday, April 1, 1987; and Monday, April 6, 1987.

Written public comments will be accepted until April 3, 1987.

ADDRESSES: See *Supplementary Information* for locations of hearings.

Written comments may be sent to Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201. Copies of the 1987 salmon stock abundance report, the Council's regulation options, and their impact analysis are available at this address and at the hearings.

FOR FURTHER INFORMATION CONTACT: Joseph C. Greenley, 503-221-6352.

SUPPLEMENTARY INFORMATION: The hearings will take place as follows:

March 31—California Dept. of Fish & Game, 1416 Ninth Street, Sacramento, California, First Floor Auditorium, Resource Building.

March 31—Thunderbird Motor Inn, 1313 North Bayshore Drive, Coos Bay, Oregon, North & South Umpqua Rooms.

April 1—Astoria Middle School, 1100 Klaskanine Avenue, Astoria, Oregon, Cafeteria.

April 1—Red Lion Motor Inn, 1929 Fourth Street, Eureka, California, Redwood Ballroom.

April 6—Seattle Airport Hilton, 17620 Pacific Hwy. S., Seattle, Washington, Horizon/Alpine Rooms.

The Council will meet April 7-10 at the Seattle Airport Hilton to consider the input from the public hearings and written comments received, and to hear additional comments from its advisors and the public. By April 10, the Council will adopt its final recommendations for the 1987 ocean salmon fishery management measures for submission to the Secretary of Commerce.

(16 U.S.C. 1801 *et seq.*)

Dated: March 24, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-6938 Filed 3-27-87; 9:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 52, No. 60
Monday, March 30, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

OSHA Rulemaking Committee; Public Meeting and Request for Comments

AGENCY: Administrative Conference of the United States, Committee on Rulemaking.

ACTION: Notice of public meeting; Request for comments.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking of the Administrative Conference of the United States to be held on Tuesday, April 14, 1987. The committee has scheduled this meeting to consider a draft recommendation on OSHA rulemaking (below) and any agency or public comments received on it.

DATES: The meeting will be held on Tuesday, April 14, 1987, at 9:45 a.m. Written comments must be received by noon on Monday, April 13, to be considered by the committee at the meeting. (Comments received after that date will be sent to the committee and considered to the extent possible.)

ADDRESSES: The committee meeting will be in Library of the Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC.

Written comments should be sent to Michael W. Bowers, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037.

Public Participation: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: (202) 254–7065.

SUPPLEMENTARY INFORMATION: The Committee on Rulemaking met on March 13, 1987, and tentatively adopted the following draft recommendation, on which it now invites comment:

Committee on Rulemaking—Draft Recommendation on OSHA Rulemaking: Priority Setting, Internal Management and Interagency Coordination

The Administrative Conference has undertaken, at the request of the Occupational Safety and Health Administration (OSHA), a comprehensive study of OSHA's procedures for promulgating health and safety standards. In this Recommendation, the Conference advises OSHA on ways it can improve its process for setting regulatory priorities and its internal management of rulemaking. The Conference also recommends additional steps that health and enviromental agencies should undertake for better coordination of their regulatory actions.

Draft Recommendation

1. Setting of Priorities

a *Regulatory Priorities Committee.* The Occupational Safety and Health Administration (OSHA) should establish a permanent charged with developing a list of regulatory priorities to which the agency will presumptively adhere in undertaking rulemaking initiatives.

(1) This committee should include high-level management officials and experienced health professionals from OSHA and representatives from the National Institute for Occupational Safety and Health (NIOSH) and the Enviromental Protection Agency (EPA). To provide continuity, committee members should be appointed for staggered three-year terms and be eligible for reappointment. To be effective, however, the committee should be limited in size, taking into account necessary membership requirements.

(2) OSHA should provide staff support for the committee and additional resources to enable it to gather information of potential rulemaking topics and, where appropriate, to perform risk assessments and priority-setting exercises.

(3) The committee should establish an initial priority list and, thereafter, meet regularly to consider additions, deletions or revisions of the list, as well as to conduct periodic reviews.

(i) In developing the initial priority list, the committee should use existing data, including risk assessments and other technical and policy considerations. The committee should avoid elaborate risk assessments or weighting systems, and it should not incorporate by reference lists prepared by other agencies for other purposes.

(ii) It may be appropriate, however, for the committee to utilize more sophisticated risk assessments or weighting systems when it conducts a periodic review of the list or considers modifications to it.

(4) OSHA should work closely with NIOSH in developing its initial priority list and in revising the list. In addition, OSHA and NIOSH should establish procedures that will permit NIOSH to respond rapidly with information on projects that OSHA assigns to the expedited decision process.

b. *Public Participation.* (1) Prior to establishing an initial priority list, OSHA should hold public workshops at which interested parties are invited to review and make recommendations on a list (or partial list) of priorities.

(2) The results of meetings of the Regulatory Priorities Committee should be made public after the Assistant Secretary has had an opportunity to review any proposed decisions made by the committee.

(3) The Assistant Secretary should publish for public comment a proposed initial priority list of rulemaking topics. The list should either rank the topics individually or assign them to classes. This proposed list should be identified as a policy statement and not a rule for which judicial review would be appropriate.

c. *Expedited action on proposed amendments.* OSHA should establish a procedure for expediting priority decisions on topics that are presented by referrals from EPA under the Toxic Substances Control Act, rulemaking petitions, or special requests from Congress or the President. While

separate from the agency's routine priority process, this expedited process should be coordinated with it. The outcome of the expedited process should be the placement of the topic on the priority list or a determination not to place the project on the list, with a public explanation for the action.

2. Management

a. *Action Tracking System.* OSHA should establish a computer status system to set deadlines for meeting established milestones in rulemaking and to provide for systematic review of the progress of ongoing rulemaking through use of a "due or late" list.[1] Under this system, management officials, representing all interested agency components, should meet at regular intervals with the Assistant Secretary or a Deputy Assistant Secretary to discuss progress toward designated milestones.

b. *The Team Approach.* OSHA should reinstate, on a formal basis, the team concept in rulemaking. A team for each individual rulemaking, consisting of representatives of all potentially interested components of OSHA and the Department, should be appointed early in the rulemaking process to gather and analyze information, draft documents, respond to comments and advise the Assistant Secretary. Successfully functioning teams should be assigned to additional rulemakings as appropriate.

c. *Options Review Process.* OSHA should implement an "options review" process to provide policy guidance to teams working on designated, important health and safety rulemaking. This system (such as that employed by EPA) would provide that at least once in the early development of such rules, the rulemaking team will identify and analyze regulatory options for consideration by an upper-level agency policymaking official. The options review meeting could be held in conjunction with the regular action tracking meetings recommended above (paragraph 2.a.). This options review meeting should consider alternative approaches for rulemaking and narrow the range of options to be considered in the future; any decisions should be memorialized in a memorandum that is available to the team.

3. Interagency Coordination

a. *Coordination with OSHA.* OSHA, EPA and the National Toxicology Program should establish an agreement through which OSHA's needs for testing of toxic substances in the workplace are communicated to those agencies. This agreement also should coordinate the exercise of the agencies' authorities to promote the protection of employees from workplace risks.

b. *Interagency Group.* OSHA, EPA, the Food and Drug Administration, the Food Safety and Inspection Service (Department of Agriculture), the Consumer Product Safety Commission, and other health and environmental agencies should form a high-level group to explore ways of coordinating agency policies and the production and sharing of information relevant to regulating health and environmental hazards.

Dated: March 25, 1987.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 87-6877 Filed 3-27-87; 8:45 am]

BILLING CODE 6110-01-M

[1] Such systems currently are used by other agencies, including the EPA which refers to its system as the "Action Tracking System."

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 87-030]

Advisory Committee on Foreign Animal and Poultry Diseases; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

SUMMARY: The purpose of this document is to give notice of a meeting of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

PLACE, DATES, AND TIME OF MEETING: The meeting will be held at Room 743A of the Federal Building, U.S. Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland, April 21, 1987, from 8 a.m to 4:30 p.m., and April 22, 1987, from 7:30 a.m. to 12 noon.

FOR FURTHER INFORMATION CONTACT: Dr. Wesley Garnett, Senior Staff Officer, VS, APHIS, USDA, Room 747, Federal Building, Hyattsville, MD 20782, (301) 436-8091.

SUPPLEMENTARY INFORMATION: The purpose of the Committee is to advise the Secretary on means to prevent, suppress, control or eradicate an outbreak of foot-and-mouth disease or other destructive foreign animal or poultry diseases in the event such disease should enter the United States.

The meeting will be open to the public. Written statements concerning these matters may be filed with the committee before or at the time of the meeting.

Written statements concerning the meeting may be forwarded to Dr. Wesley Garnett, Senior Staff Officer, VS, APHIS, USDA, Room 747, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8091.

Dated: March 24, 1987.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 87-6930 Filed 3-27-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Survey of Income and Program Participation—1986 Panel Wave 6; 1987 Panel Wave 3

Form number: Agency—SIPP 7300, SIPP-6600, SIPP-66/7305(L); OMB—NA

Type of request: Revision of a currently approved collection

Burden: 47,880 respondents; 23,940 reporting hours

Needs and uses: The objective of this survey is to provide the executive and legislative branches with improved statistics on income distribution and data not previously available on eligibility for and participation in government programs. Changes in status and participation will be measured over time. The data will support policy and program planning.

Affected public: Individuals or households

Frequency: One time

Respondent's Obligation: Voluntary

OMB Desk Officer: Don Arbuckle, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: March 24, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-6855 Filed 3-27-87; 8:45 am]

BILLING CODE 3510-07-M

Bureau of the Census

Estimates of the Voting Age Population for 1986

Under the requirements of the 1976 amendment to the Federal Election Campaign Act, 2 U.S.C. 441a(e), I hereby give notice that the estimates of the voting age population for July 1, 1986, for each state, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of American Samoa, Guam, and the Virgin Islands are as shown in the following table.

I have certified these estimates to the Federal Election Commission.

Dated: March 23, 1987.

Malcolm Baldrige,

Secretary of Commerce.

ESTIMATES OF THE POPULATION OF VOTING AGE FOR EACH STATE, THE DISTRICT OF COLUMBIA AND SELECTED OUTLYING AREAS: JULY 1, 1986

[In thousands]

Area	Population 18 and over
UNITED STATES	177,807
Alabama	2,938
Alaska	358
Arizona	2,405
Arkansas	1,728
California	19,949
Colorado	2,396
Connecticut	2,438
Delaware	475
District of Columbia	495
Florida	9,071
Georgia	4,422
Hawaii	773
Idaho	682
Illinois	8,471
Indiana	4,013
Iowa	2,095
Kansas	1,792
Kentucky	2,715
Louisiana	3,150
Maine	871
Maryland	3,359
Massachusetts	4,480
Michigan	6,675
Minnesota	3,075
Mississippi	1,842
Missouri	3,733
Montana	588
Nebraska	1,154
Nevada	740
New Hampshire	769
New Jersey	5,761
New Mexico	1,023
New York	13,437
North Carolina	4,740
North Dakota	484
Ohio	7,905
Oklahoma	2,379
Oregon	1,990
Pennsylvania	9,031
Rhode Island	751
South Carolina	2,460
South Dakota	503
Tennessee	3,572
Texas	11,792
Utah	1,046
Vermont	401
Virginia	4,337
Washington	3,271
West Virginia	1,415
Wisconsin	3,508
Wyoming	348
OUTLYING AREAS	
Puerto Rico	2,038
Guam	75
Virgin Islands	64
American Samoa	19

[FR Doc. 87-6932 Filed 3-30-87; 8:45 am]

BILLING CODE 3510-07-M

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fishery Service, NOAA, Commerce

The Mid-Atlantic Fishery Management Council will convene a public meeting, April 1-2, 1987, at the Quality Inn, 2015 Penrose Avenue, Philadelphia, PA; telephone: (215) 755-6500, to discuss the Summer Flounder Fishery Management Plan and other fishery management and administrative matters. The meeting may be lengthened or shortened depending upon progress of the agenda. The Council also may go into closed session to discuss personnel and/or national security matters.

For further information contact John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, DE 19901; telephone: (302) 674-2331.

Dated: March 25, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-6939 Filed 3-27-87; 8:45 am]

BILLING CODE 3510-22-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting, April 7, 1987, to discuss reports of the enforcement, groundfish, lobster and scallop oversight committees; discuss the status of the large pelagics and fluke fisheries; discuss research priorities, as well as other fishery management and administrative matters.

The meeting will convene at 8:30 a.m., adjourn the same day at approximately 5 p.m., and will take place at the King's Grant Inn, Danvers, MA. For further information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (Route 1), Saugus, MA; telephone: (617) 231-0422.

Dated: March 25, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-6940 Filed 3-27-87; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent to Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Roberts Laboratories, having a place of business in Eatontown, NJ, an exclusive right in the United States to manufacture, use, and sell products embodied in the invention entitled "1,2-Diaminocyclohexane Platinum II Complexes Having Antineoplastic Activity Against L1210 Leukemia," U.S. Patent Applications S.N. 5-719,689, U.S. Patent 4,115,418 and S.N. 5-855,910, U.S. Patent 4,175,133. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the public interest.

Inquiries, comments and other materials relating to the intended license must be submitted to Papan Devnani, Office of Federal Patent

Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of the Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 87-6933 Filed 3-27-87; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1987 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: April 30, 1987.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 21, 1986, September 12, 1986, December 29, 1986 and January 20, 1987, the Committee for Purchase from the Blind and Other Severely Handicapped published notice (51 FR 32516, 42130, 46908 and 52 FR 2145) of proposed additions to and deletions from Procurement List 1987, November 3, 1986 (51 FR 39945).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat, 77 and 41 CFR 51-2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The action will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The action will not have a serious economic impact on any contractors for the commodity and services listed.

c. The action will result in authorizing small entities to produce the commodity and services procured by the Government.

Accordingly, the following commodities and services are hereby added to Procurement List 1987:

Commodities

Stool
- P.S. Item #127-A
- P.S. Item #127-B
- P.S. Item #127-C
- P.S. Item #127-D

Aerosol Paint, Lacquer
- 8010-00-958-8147
- 8010-00-958-8148
- 8010-00-958-8151

Aerosol Paint, Primer Coating
- 8010-00-067-5434
- 8010-00-616-9181

Enamel, Lacquer
- 8010-00-664-1914
- 8010-00-702-1053
- 8010-00-582-4743
- 8010-00-851-5525
- 8010-00-941-8712
- 8010-00-133-5901
- 8010-00-181-7791
- 8010-00-935-6609
- 8010-00-935-7064
- 8010-00-935-7075
- 8010-00-935-7079
- 8010-00-935-7085

Enamel, Primer Coating
- 8010-00-584-2426
- 8010-00-159-4518

Service

Machining Parts
(Requirements of the Naval Supply Center, Charleston, South Carolina only)
Operation of the Postal Service Center, Sheppard Air Force Base, Texas
Repair of Tool Box and Rollaway, Robins Air Force Base, Georgia

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

Accordingly, the following commodities and services are hereby deleted from the Procurement List 1987:

Commodities

Cap, Operating, Surgical
- 6532-00-299-9614
- 6532-00-299-9613
- 6532-00-299-9612

Mat, floor
- 7220-01-023-9487
- 7220-01-023-9490
- 7220-01-023-9491
- 7220-01-023-9493
- 7220-01-023-9494
- 7220-01-023-9495
- 7220-01-023-9496
- 7220-01-023-5997

Services

Commissary Shelf Stocking and Custodial Service, Hanscom Air Force Base, Massachusetts
Janitorial/Custodial, U.S. Federal Building and Post Office, Bangor, Maine

C.W. Fletcher,

Executive Director.

[FR Doc. 87-7049 Filed 3-27-87; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER87-202-001 et al.]

Arkansas Power & Light Co. et al.; Electric Rate and Corporate Regulation Filings

March 24, 1987.

Take notice that the following filings have been made with the Commission:

1. Arkansas Power & Light Company

[Docket No. ER87-202-001]

Take notice that Arkansas Power & Light Company (AP&L) filed on March 16, 1987, revisions to a proposed First Amendment to Peaking Power Agreement amending the Peaking Power Agreement dated September 10, 1985 which is a supplement to the Power Coordination, Interchange & Transmission Agreement between City of West Memphis, Arkansas and Arkansas Power & Light Company, dated June 25, 1982. The revisions were in response to a deficiency letter from the Commission.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

2. Georgia Power Company

[Docket No. ER87-27-000]

Take notice that on March 16, 1987, Georgia Power Company (the Company) tendered for filing additional information concerning a Scheduling Services Agreement with Oglethorpe Power Corporation.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

3. Gulf States Utilities Company

[Docket No. ER87-538-003]

Take notice that on March 13, 1987, Gulf States Utilities Company tendered for filing a compliance report showing a

summary of the total refund, including interest, which resulted from the acceptance by the Commission of the executed Settlement Agreement in Docket No. ER85-538-001 filed on October 15, 1986.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

4. Iowa Power and Light Company

[Docket No. ER87-326-000]

Take notice that Iowa Power and Light Company, Des Moines, Iowa, (Iowa Power), on March 17, 1987 tendered for filing a Generation Services Agreement (Agreement) between Iowa Power and Union Electric Company, St. Louis, Missouri (Union Electric) dated as of March 13, 1987, with schedules reflecting charges for Iowa Power providing a generation service to Union Electric.

The Agreement is proposed effective as of March 18, 1987. Wavier of the Commission's notice requirements have been requested by the parties.

Iowa Power states a complete copy of the filing has been mailed to Union Electric, and Iowa State Utilities Board, the Illinois Commerce Commission, and the Missouri Public Service Commission.

Iowa Power states that the Agreement (and its Exhibits) provides that Iowa Power (during the period March 18, 1987 to December 31, 1987) will convert into electricity, at the Council Bluffs Generating Stations near Council Bluffs, Iowa operated and owned in part by Iowa Power, coal purchased by Union Electric which has been delivered to the Council Bluffs Power Station. Exhibit B to the Agreement sets forth the charge for providing the generation service.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this document.

5. Minnesota Power & Light Company

[Docket No. ER87-324-000]

Take notice that on March 16, 1987 Minnesota Power & Light Company tendered for filing a Firm Power Service Agreement between Minnesota Power & Light Company (MP) and Otter Tail Power Company (OTP). Under this Agreement, MP an OTP will sell 30 MW of firm power service to each other on a seasonal diversity basis in accordance with the Mid Continent Power Pool Agreement, Service Schedule J. Service under this Agreement will be supplied during the period from May 1, 1987 to April 30, 1988.

The parties request an effective date of the date next following the Commission's 60 day filing period for this Agreement.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

6. New York State Electric Corporation

[Docket No. ER87-370-002]

Take notice that on March 13, 1987, New York State Electric Corporation (NYSEG) tendered for filing a report and schedules showing the calculation of the refund of excess revenues collected by NYSEG, plus applicable interest, as set forth in § 35.19(a) of the Commission's Regulations; monthly billing determinants; revenue receipt dates and revenues under the prior, present and settlement rates; the monthly revenue refund and the monthly interest computed; and a summary of such information for the total refund period.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

7. Niagara Mohawk Power Corporation

[Docket No. ER87-325-000]

Take notice that Niagara Mohawk Power Corporation ("Niagara Mohawk"), on March 13, 1987, tendered for filing an agreement between Niagara Mohawk and Central Hudson Gas & Electric Corporation ("CHGE") dated February 4, 1987, providing for certain transmission services to CHGE. This agreement supersedes and amends Niagara Mohawk FERC Rate Schedule No. 88.

The February 4, 1987 agreement provides for the addition of the new service of the transmission and delivery to CHGE of energy generated at the Nine Mile Point Unit #2 plant ("Nine Mile #2) and for a change in the rate charged CHGE for the transmission and delivery to CHGE of certain power and energy generated at the Nine Mile #2 plant and at the Authority's FitzPatrick Nuclear Plant. CHGE has consented to both changes.

The proposed changes would increase revenues from jurisdictional services by $1,374,219 based on the twelve months ending August 31, 1988. Effective dates of February 4, 1987 (for the commencement of transmission and delivery of Nine Mile #2 energy) and September 1, 1987 (for the change in rates) are proposed. Niagara Mohawk states that waiver of the notice requirements of 18 CFR 35.3 is warranted because CHGE, the only customer under Rate Schedule No. 88, has requested the additional service, has consented to the effective dates, and the practice of CHGE and Niagara Mohawk has been to make rate changes under Rate Schedule 88 effectice September 1.

Copies of the filing were served upon CHGE and the New York State Public Service Commission.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this document.

8. Pacific Gas and Electric Company

[Docket No. ER87-327-000]

Take notice that on March 18, 1987, Pacific Gas and Electric Company (PGandE) tendered for filing changes to FERC Rate Schedule No. 84. This Rate Schedule covers services that are rendered by PGandE under the agreement entitled the "Interconnection Agreement Between Pacific Gas and Electric Company and the Northern California Power Agency, City of Alameda, City of Biggs, City of Gridley, City of Healdsburg, City of Lodi, City of Lompoc, City of Palo Alto, City of Roseville, City of Ukiahn and Plumas Sierra Rural Electric Cooperative" (Interconnection Agreement). This filing tenders a revised Exhibit A-1 to the Interconnection Agreement. The revision does not change the level of any rate.

The current Exhibit A-1 lists the Partial Requirements Power and Capacity Reserve amounts that the Northern California Power Agency (NCPA) is obligated to purchase from PGandE during 1986. The revised Exhibit A-1 establishes: (a) the Partial Requirements Power Contract Demand obligation and the associated transmission obligation at 16.394 MW for 1987 and (b) establishes the Capacity Reserve sales from PGandE to NCPA at 4.064 MW/month for 1987. These amounts are subject to the resolution of a number of disputes between PGandE and NCPA.

PGandE requests, pursuant to the Commission's Regulations (18 CFR 35.11), waiver of the Commission's usual notice requirement so as to permit the revised Exhibit to become effective on January 1, 1987. No customers under any other rate schedules will be affected if such waivers are granted.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER87-67-001]

Take notice that on March 17, 1987, Wisconsin Electric Power Company (the Company) tendered for filing its cost support data justifying the wholesale rate revisions filed October 31, 1986, in Docket No. ER87-67-000, in accordance with the Commission's order issued January 30, 1987.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

10. Pacific Power & Light Company, an assumed business name of PacifiCorp

[Docket No. ER87-328-000]

Take Notice that Pacific Power & Light Company (Pacific), as assumed business name of PacifiCorp, on March 18, 1987, tendered for filing, in accordance with Section 35 of the Commission's Regulations, a Revised Exhibit B, dated October 1, 1986, to the May 29, 1981 Transmission Agreement (Pacific's Rate Schedule FERC No. 213) between Pacific, Deseret Generation & Transmission Co-operative (Deseret) and Bridger Valley Electric Association, Inc. (Bridger Valley).

Exhibit B to the Transmission Agreement is revised annually in accordance with Article 12(ii) of the Agreement, and specifies the projected maximum integrated demand in kilowatts which Deseret desires to have transmitted to Bridger Valley for a four year rolling period.

Pacific respectfully requests, pursuant to § 35.11 of the Commission's Regulations, that a waiver of prior notice be granted and an effective date of October 1, 1986, be assigned. This date being consistent with the effective date shown on Exhibit B.

Copies of the filing were supplied to Deseret, Bridger, Valley, and the Wyoming Public Service Commission.

Comment date: April 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6904 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-654-021]

Algonquin Gas Transmission Co.; Compliance Filing

March 24, 1987.

Take notice that on March 18, 1987, Algonquin Gas Transmission Company (Algonquin) tendered for filing revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1. The following sheets were filed pursuant to the December 18, 1986 and February 17, 1987 orders issued in Docket No. CP84-654 to be effective November 1, 1986:

Third Substitute Seventh Revised Sheet No. 205
First Revised Sheet No. 381
Second Substitute Original Sheet No. 383
Second Substitute Original Sheet No. 385
First Revised Sheet No. 794

In addition, in compliance with the Commission's July 1, 1985 order in Docket No. CP84-654-000, *et al.*, Algonquin has filed the following tariff sheets cancelling the necessary tariff sheets to effectuate the termination of service under Rate Schedule F-4 Interim to be effective December 4, 1986:

Eighth Revised Sheet No. 100
Eighth Revised Sheet No. 300
First Revised Sheet No. 387

Pursuant to the provisions of section 7 of its Rate Schedule F-4, Algonquin submits the following sheets to be effective as proposed. Such tariff sheets are being filed to flow through Texas Eastern Transmission Corporation's revised DCQ Contract Adjustment Demand Rate.

Revised Substitute Ninth Revised Sheet No. 205 effective December 4, 1986
Revised Tenth Revised Sheet No. 205 effective January 1, 1987
Revised Eleventh Revised Sheet No. 205 effective February 1, 1987

Algonquin has served copies of this filing upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure. All such motions or protests should be filed on or before April 1, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 6905 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-50-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

March 24, 1987.

Take Notice that Algonquin Gas Transmission Company ("Algonquin") on March 17, 1987, tendered for filing a proposed change in its FERC Gas Tariff, Second Revised Volume No. 1 consisting of First Revised Tariff Sheet No. 634 which reflects a change other than in rate level, as defined in 18 CFR 154.63.

Algonquin states that the revised tariff sheet is being filed to eliminate from Algonquin's unrecovered purchase gas cost account (Account 191) the provision requiring a credit adjustment for revenues received from miscellaneous transportation services under Volume 2 of its FERC Gas Tariff previously set forth in section 17.5 of its General Terms and Conditions. Algonquin states that revenues from such Volume 2 transportation instead will receive review in Algonquin's general rate cases on a consistent basis with Volume 1 transportation.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before March 31, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6906 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-2-44-000, 001]

Commercial Pipeline Co., Inc.; PGA Filing

March 24, 1987.

Take notice that on March 20, 1987, Commercial Pipeline Co., Inc. ("Commercial") tendered for filing its 51st Revised Sheet No. 3A, to its FERC Gas Tarriff, First Rev. Vol. 1, reflecting Purchased Gas Adjustment and Total Rate as shown below.

	Current adjustment	Cumulative adjustment	Surcharge adjustment	Total rate
(Base)	$1 0121	$1.3026	$(.5166)	$4.2564
(Excess)	1.0285	1 3142	(.5166)	4.3794

The effective date of Commercial's filing is April 23, 1987.

Commercial states that this filing reflects adjustments in its purchased gas cost to provide for the tracking of a corresponding PGA adjustment by Commercial's sole supplier, Williams Natural Gas Company. The filing also reflects surcharge adjustments in accordance with Commercial's PGA.

Copies of the filings were served on Commercial's FERC jurisdictional customers, the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC., 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 1, 1987. Protestants will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for pubic inspection.

Kenneth F. Plumb.

Secretary.

[FR Doc. 87-6907 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-374-000]

Kirby Exploration Company of Texas; Application for Abandonment

March 24, 1987.

Take notice that on March 13, 1987, Kirby Exploration Company of Texas (Kirby), P.O. Box 1745, Houston, Texas 77251, filed an application under section 7(b) of the Natural Gas Act.

Kirby states that there is currently one well on the leases dedicated to ANR Pipeline Company (ANR) that is capable of production, the Mathers No. 1-74 well, North Thorndike Area, Gray County, Texas. The Mathers No. 1-74 is an oil well that has suffered a significant drop in its flowing tubing pressure such that the small volume of natural gas production cannot enter ANR's facilities. The gas purchase contract dated August 7, 1967, between Kirby and ANR requires ANR to provide compression. Since this is an oil well, Kirby has been forced to flare the natural gas production. By letter dated December 18, 1986, ANR elected not to add compression and released the well. This release is further evidenced by an amendment dated February 17, 1987, to the subject gas purchase contract. Kirby requests that the Commission issue an order granting Kirby authorization to abandon sales to ANR from acreage attributable to the Mathers No. 1-74 well.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 9, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it is determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Kirby to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6908 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-51-000]

Northern Natural Gas Company, Division of Enron Corp.; Tariff Filing

March 24, 1987.

Take Notice that on March 20, 1987, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing to become a part of Northern Natural Gas Company's (Northern) F.E.R.C. Gas Tariff, Third Revised Volume No. I.

Sixth Revised Sheet No. 17
Second Revised Sheet No. 24b

These pages consist of revisions to paragraph 6.23 of Northern's CDO-1 and CD-1 Rate Schedules to allow for group billing at the operational zone rate in which the excess volumes are delivered rather than at the operational zone rate in which the excess volumes originated.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 1, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6909 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-337-000]

Pelto Oil Co.; Notice of Application for Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Limited-Term Abandonment and Pre-Granted Abandonment

March 24, 1987.

Take notice that on February 27, 1987, Pelto Oil Company (hereinafter referred to as Pelto) filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (GNA), the provisions of 18 CFR Parts 154 and 157, and 18 CFR 2.77(a)(1), seeking (i) a certificate of public convenience and necessity authorizing the sale for resale in interstate commerce of certain natural gas produced by Pelto and its joint interest owners in offshore Louisiana, and (ii) limited-term abandonment and pre-granted permanent abandonment of certain sales as described therein, to effectuate the short-term and spot sale and purchase of gas, as more fully described in the Application which is on

file with the Commission and open for public inspection. The term of the authorizations requested by Pelto is four years. Pelto also requests that said authorizations be made effective on or before April 1, 1987, the expiration date of its current authorizations.

Pelto states that the authority requested is consistent with the Commission's rules and regulations and is necessary for Pelto to continue making short-term and spot gas sales. Further, Pelto states that, absent said authorization, the flexibility and efficiency necessary for successful operation in the current gas market would be hindered.

Specifically, Pelto requests that the Commission authorize Pelto, effective on or before April 1, 1987:

(i) To make sales for resale in interstate commerce for a period of four years, without supply or market limitations, of gas subject to the Commission's NGA jurisdiction that is produced from various interests owned by Pelto;

(ii) To make sales for resale in interstate commerce for a period of four years, without supply or market limitations, of gas subject to the Commission's NGA jurisdiction, produced by other owners having interests in the same wells as Pelto, to the extent that such joint interest owners agree to same;

(iii) To abandon for a four-year term sales for resale of gas subject to the Commission's NGA jurisdiction and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale in the spot market or on a short-term basis to third parties; and

(iv) To abandon permanently (pre-granted abandonment) any sale for resale authorized pursuant to Pelto's small producer certificate or the certificate requested by Pelto's Application herein.

Sales proposed to be made by Pelto on behalf of itself and its joint interest owners will not involve a dedication of reserves. The sales volumes, prices, purchasers, delivery points, transporters, and supply source will vary. Pelto proposes to sell and deliver to various short-term and spot gas purchasers all or a portion of the gas Pelto determines is available for sale at terms acceptable to Pelto for a particular month. Pelto will not be obligated to sell gas until the exact volumes, terms and conditions, and prices are agreed to by Pelto and a purchaser. All contracts entered into by Pelto and the short-term and spot gas purchaser will be subordinate to the requirements of Pelto's current pipeline purchasers. Pelto is agreeable to affording take-or-pay credit to its current purchasers for gas released and sold under the authorities requested by Pelto.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 7, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6910 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI87-168-000 and CI87-169-000]

Union Oil Company of California; Notice of Application

March 24, 1987.

Take notice that on December 9, 1986, Union Oil Company of California (Union) of P.O. Box 7600, Los Angeles, California 90051 filed an application pursuant to §§ 2.77 and 157.30 of the Commission's Regulations under the Natural Gas Act in Docket No. CI87-168-000 for abandonment of service to El Paso Natural Gas Company (El Paso) from the Red Hills Field located in Lea County, New Mexico, authorized in Docket No. CI65-485, and Docket No. CI87-169-000 for a blanket Certificate of Public Convenience and Necessity authorizing sales of gas in interstate commerce for resale with blanket, pregranted abandonment authorization for a three year period.

In support of its proposed abandonment, Union states that the rollover agreement between the parties expired December 31, 1986. Union has asked the purchaser for a new contract but has received no response. Union is seeking abandonment authorization to permit sales to a new purchaser. Union indicates that its interest in production still subject to the Natural Gas Act consists of approximately 700 Mcf/day of NGPA Section 106(a) interstate rollover gas.

In support of its request for blanket certificate authorization with pregranted abandonment, Union states that it proposes to sell the gas proposed from the Red Hills Field to a new purchaser and that such authorization would permit Union to respond promptly to sudden changes in the market for this gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 7, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-6911 Filed 3-27-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI87-346-000]

Walter Oil & Gas Corp.; Notice of Application of Walter Oil & Gas Corporation for Expedited Producer Abandonment With Pre-Granted Abandonment

March 24, 1987.

Take notice that on March 4, 1987, Walter Oil & Gas Corporation (Walter), pursuant to Section 7(b) of the Natural Gas Act, 15 U.S.C. 717(f)(b) (1982), and Section 2.77 of the General Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 2.77 (1986), filed an application requesting expedited producer abandonment with pre-granted abandonment of service through February 28, 1989 for certain volumes of natural gas produced from Vermilion Block 164 Unit, Offshore Louisiana. Walter states that the application pertains only to "excess volumes" that are or will be shut-in and which Texas Eastern Transmission Corporation, the current purchaser, states that it cannot purchase due to

market constraints. Texas Eastern will have the right to recall released excess volumes on 60-days' notice. Walter also states that the excess volumes are subject to the maximum lawful price applicable to "post-1974" NGPA Section 104 natural gas. Estimated deliverability of the excess volumes is up to 10 MMcf per day. Walter requests that the Commission authorize limited-term abandonment with pre-granted abandonment of the released excess volumes through February 28, 1989 so that Walter may sell the volumes on the spot market to other purchasers pursuant to Walter's blanket small producer certificate.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436–A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85–1–000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–6912 Filed 3–27–87; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI87–319–000]

WTG Exploration, Inc.; Notice of Application for Adandonment

March 24, 1987.

Take notice that on February 17, 1987, as supplemented on March 5, 1987, WTG Exploration, Inc., 3100 North "A", Bldg. E, Suite 202, Midland, Texas 79705 (WTG), a small producer certificate holder in Docket No. CS83–65–000, filed an application for abandonment to its sale to El Paso Natural Gas Company (El Paso) under a November 9, 1966, contract which WTG states is scheduled to expire on March 31, 1987. The gas is NGPA section 104 small producer flowing and post 1974, 108 and 109 gas produced from Howard Draw and Howard Draw, N.E. (Multi-Pay) Fields, Crockett County, Texas.

In support of its application WTG states it is subject to substantially reduced takes without payment. The estimated volume requested to be abandoned is 350 Mcf/d. El Paso sold the mainline system and treating facility to Apache Gas Company, effective September 1, 1986. El Paso released the NGPA gas production by letter agreement dated December 1, 1986, and WTG executed a one-year contract to sell such NGPA gas to Apache for resale in various spot markets. The gas requires treating for removal of sour gas and currently available facilities will not handle the total estimated central point delivery volume. The jurisdictional gas has therefore been shut in without takes other than lease protection. Curtailment to approximately one day per month began in June 1986.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to Section 2.77 of the Commission's rules as promulgated by Order No. 436 and 436–A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85–1–000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Accordingly, any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87–6913 Filed 3–27–87; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3176–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U. S. C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382–2712 (FTS 382–2712) or Jackie Rivers, (202) 382–2740 (FTS 382–2740).

SUPPLEMENTARY INFORMATION:

Office of Policy, Planning and Evaluation

Title: Pretest of Section 312 Forms under SARA, Title III (EPA ICR #1358). (This is a new collection.)

Abstract: Facilities in Standard Industrial Classification codes 20–39 must submit an emergency and hazardous chemical inventory form estimating amounts and location of the hazardous chemical. This limited pretest of selected facilities subject to Tier I and II reporting under section 312 of SARA should produce information identifying otherwise unforeseen problems in reading, understanding, and completing the forms.

Respondents: Voluntary participation of facilities in SIC codes 20–39.

Estimated annual burden: 220 hours.

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0107, Source Compliance and State Action Reporting, was approved 2/19/87 (OMB #2060–0096; expires 2/29/90).

EPA ICR #1191, National Survey of Pesticides in Drinking Water Wells (Pilot Study), was approved 2/18/87 (OMB #2040–0046; expires 8/31/87).

EPA ICR #1241; Suspended/ Cancelled Products: Claim for Indemnification, Request for Federal Disposal; was aoproved 2/18/87 (OMB #2060–0048; expires 2/29/90).

EPA ICR #1331, Reporting on Accidental Release Causes and Preventive Techniques, was approved 3/8/87 (OMB #2050-0065; expires 3/31/88).

Comments on the abstracts in this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Carlos Tellez, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: March 24, 1987.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 87-6885 Filed 3-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-400004; FRL-3177-2]

Title III of the Superfund Amendments and Reauthorization Act of 1986; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The EPA has scheduled a public meeting to discuss the planning and development of a computerized public data base containing a toxic chemical release inventory under section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986.

DATE: The meeting will be held on Monday, April 20, 1987, from 9 a.m. to 3 p.m.

ADDRESS: The meeting will be held in: EPA's South Conference Room #4, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, 401 M St., SW. Washington, DC 20460, Telephone: (202) 554-1404.

SUPPLEMENTARY INFORMATION: EPA has scheduled a public meeting to obtain information on user needs and accessibility requirements of a computerized data base as mandated under section 313 of Title III.

Title III of the recently enacted Superfund amendments contains chemical information-gathering provisions of widespread interest to the public, the industry, and to State and local governments. The EPA's Office of Toxic Substances (OTS) has specific responsibility for implementing section 313 of Title III. Under section 313, owners and operators of certain industrial facilities which manufacture, process, or otherwise use any of over 300 listed toxic chemicals must report annually their releases of such chemicals to all environmental media. The information gathered under this section must be made available to the public. In particular, EPA must develop a national computerized data base containing this "toxic chemical release inventory." Further, the information must be made accessible to the public through means of computer telecommunications.

Under Title III, EPA must publish the section 313 Toxic Chemical Release Inventory reporting form by June 1, 1987. The first reports are due by July 1, 1988, for calendar year 1987 data, and annually thereafter on July 1, for the previous calendar year. Current estimates are for up to 140,000 forms to be submitted on or before July 1 of the first reporting period. In order to develop a data base that is useful and publicly accessible, EPA is seeking extensive early involvement in the planning and development of this data base. EPA is particularly interested in learning how the public will use the information, how the public currently locates and gathers like information, how frequently the data may likely be used, and the types of products and services the public would most likely use. EPA is also investigating other methods of data dissemination, based on needs; for example, hardcopy, microfiche, etc. To assist public input, EPA has made copies of (1) "Superfund Amendments and Reauthorization Act of 1986," Title III, sections 313 and 322; (2) the draft document: Options for Making the Toxic Release Inventory (TRI) Data Base Available to the Public; and (3) a preliminary draft: Discussion Topics for the Public Regarding Search and Access Requirements for the Toxic Release Inventory.

A public meeting is scheduled for April 20, 1987 to discuss the development of the public data base under section 313. Persons interested in attending this meeting and/or in obtaining copies of the review materials should call the TSCA Assistance Office (TAO) at the telephone number listed under **FOR FURTHER INFORMATION CONTACT.** EPA encourages anyone interested in attending the public meeting to review the draft documents in advance. Written comments also may be submitted to: Margo Oge, Project Manager, Toxic Release Inventory, Office of Toxic Substances (TS-779), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Dated: March 23, 1987.

Michael Shapiro,

Director, Economics and Technology Division.

[FR Doc. 87-6886 Filed 3-27-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59238A; FRL-3177-1]

Certain Chemical Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-87-7. The test marketing conditions are described below.

EFFECTIVE DATE: March 11, 1987.

FOR FURTHER INFORMATION CONTACT: Dayton Eckerson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794); Office of Toxic Substances, Environmental Protection Agency, Rm. E-613C, 401 M St. SW., Washington, DC 20460, (202-475-8994).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-87-7. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. The import volume must not exceed that specified in the application. All other conditions and restrictions described in

the application and in this notice must be met.

The following additional restrictions apply to TME-87-7. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

4. The applicant must maintain records of any determination that gloves are impervious to the test market substance, as required below.

T 87-7

Date of Receipt: January 16, 1987.

Notice of Receipt: February 6, 1987 (52 FR 3861).

Applicant: Burton Plastics, Inc.

Chemical: (S) Phosphine oxide diphenyl (2,4,6-trimethylbenzoyl).

Use: (S) Crosslinking agent for ultraviolet curable polyester resins.

Import Volume: Confidential.

Number of Customers: Confidential.

Worker Exposure: Confidential.

Test Marketing Period: One year.

Commencing on: March 11, 1987.

Risk Assessment: EPA identified a potential neurotoxicity concern for the test market substance based on health testing data on an analogous substance, triphenylphosphine oxide. However, EPA has determined that, under the conditions outlined above, and the restrictions outlined below, the estimated exposures to the test market substance will not be significant. Therefore, the test market substance will not present any unreasonable risk of injury to human health. The Agency did not identify potential adverse effects of the test market substance on aquatic organisms and no water releases of the substance are expected. Therefore, the test market substance will not present any unreasonable environmental risk.

Additional Restrictions: During processing of the test market substance at any site controlled by the Company, any person under the control of the Company, including employees and contractors, who may be exposed to the TME substance shall use the following protective equipment:

For dermal exposure: 1. Gloves determined by the Company to be impervious to the PMN substance under the conditions of exposure, including the duration of exposure. The Company shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation by the PMN substance and associated chemical substances.

2. Clothing which covers any other exposed areas of the arms, legs, and torso.

3. Chemical safety goggles or equivalent eye protection.

For inhalation exposure: National Institute for Occupational Safety and Health approved, category 23C respirators, excluding single-use or disposable and air purifying respirators, in accordance with 30 CFR Part 11 Subpart L. The respirators shall be equipped with combination cartridges approved for paints, enamels, and lacquers, unless air-supplied respirators are selected. Use of the respirators shall be according to 29 CFR 1910.134 and 30 CFR Part 11. If full-face type respirators are selected and worn, the chemical safety goggles requirement in paragraph 3 is waived.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: March 11, 1987.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-6889 Filed 3-27-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[General Docket No. 86-336; FCC 87-62]

Inquiry Into the Scrambling of Satellite Television Signals and Access to, by Owners of Home Satellite Dish Antennas

AGENCY: Federal Communications Commission (FCC).

ACTION: Report.

SUMMARY: This item reports on an inquiry initiated in response to Congressional requests made at a June 12, 1986 House subcommittee hearing. The report, which was prepared in cooperation with the National Telecommunications and Information Administration, concludes that there is no current need for government intervention in the home satellite dish (HSD) marketplace. The FCC will, however, monitor this market for one year and report again to Congress at the end of that time.

FOR FURTHER INFORMATION CONTACT: Jonathan D. Levy, Telephone: (202) 653-5940.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report* in General Docket 86-336, FCC 87-62, Adopted February 12, 1987 and Released March 23, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report

1. The Report on satellite television signals scrambling, which was prepared in cooperation with the National Telecommunications and Information Administration (NTIA), and adopted by the Commission on February 12, 1987, concludes that there is no current need for government intervention in the HSD marketplace. The provision of service to HSD households is still in the early stages of development. While it appears to be developing in a competitive fashion, it is appropriate for the Commission to monitor developments there for the next year. Therefore, our staff will provide quarterly reports to the Commission and to NTIA for the next year. The Commission will report to Congress if any remedial action is necessary and will deliver a final report to the Congress no later than one year after the adoption of this Report.

2. At the present time, 34 of the roughly 70 satellite cable services have announced plans to scramble their signals. Five premium channels and four basic cable services, plus two pay per view channels and one "adult" channel, have actually begun scrambling. All of the American satellite cable programmers with scrambling plans have chosen the Videocipher II system.

Thus, it appears that the marketplace has settled on that system as a *de facto* standard. While attempts have been made to break the Videocipher II code, they are being combatted both by legal and technical means.

3. The Report finds that signal scrambling serves to protect programmers from commercial theft of their services and allows them to receive compensation from all who view their copyrighted product. This serves the public interest in maintaining the incentives to produce new programming.

4. With regard to program distribution, several programmers are selling directly to HSDs on a national basis, and some of them have also acquired non-exclusive rights to market other services nationally. Programmers are also licensing cable operators on a non-exclusive basis to distribute to HSDs in their franchise areas. This structure allows for head-to-head competition among programmers on a national basis. At present, little information is available on HSD program packages, but as more basic channels scramble, it is anticipated that more discounted program packages will develop. In the meantime, the sequence of price reductions made by the movie channels over the past several months suggests a competitive process at work.

5. The Report finds that the broadcast networks are legally entitled to scramble their network feeds and to decline to sell them to HSDs. While this would limit service to a small fraction of television households, it would protect the exclusivity provisions of the network-affiliate distribution system that efficiently serves the preponderance of households. Satellite services, including news and entertainment, are available to households without over-the-air services.

6. The Report concludes that no action is warranted at this time with respect to superstation scrambling and notes that compulsory licensing issues are the subject of a separate Commission inquiry. The Report denies a request by the Satellite Television Viewing Rights Coalition, Inc. for a full evidentiary hearing on scrambling.

Ordering Clauses

7. *Accordingly it is ordered,* that the motions of ABC and CBS requesting acceptance of late-filed pleadings are granted.

8. *It is further ordered,* that the "Request for Full Evidentiary Hearing" by the Satellite Television Viewing Rights Coalition, Inc. *Is denied.*

9. *It is further ordered,* that the Secretary *shall forward* copies of this *Report* to the appropriate Committees and Subcommittees of the House of Representatives and the Senate.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-6853 Filed 3-27-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Prices for Federal Home Loan Bank Services

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice of prices for Federal Home Loan Bank Services.

SUMMARY: The Office of District Banks and the Office of Policy And Economic Research of the Federal Home Loan Bank Board ("Board") are publishing, pursuant to delegated authority, the prices charged by the Federal Home Loan Banks (FHLBanks) for (1) processing and settlement of items (negotiable order of withdrawal or NOW) and (2) demand deposit accounting (DDA) and other services offered to member institutions.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Richard J. Hotaling, (202) 377-6715, or William J. Carey, (202) 377-6656, Office of District Banks, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Section 11(e) of the Federal Home Loan Bank Act ("Bank Act") (12 U.S.C. 1431(e)) authorizes the Federal Home Loan Banks (1) to accept demand deposits from member institutions, (2) to be drawees of payment instruments, (3) to engage in collection and settlement of payment instruments drawn on or issued by members and eligible institutions, and (4) to engage in such incidental activities as are necessary to the exercise of such authority. Section 11(e)(2)(B) of the Bank Act (12 U.S.C 1431(e)(2)(B)) requires the Federal Home Loan Banks to charge fees for services authorized in that section, which fees are "to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act." Board regulations at 12 CFR 534.6 require that the Director of the Office of District Banks and the Director of the Office of Policy and Economic Research (or their designees) review, approve, and publish these fees at least annually. The regulations require the FHLBanks to follow four basic pricing principles as follows:

(1) Services must be priced explicitly.

(2) Services must be available to member and nonmember depository institutions on an equal basis.

(3) Over the long run, fees must cover direct and indirect costs and must also cover an imputed cost that includes taxes paid and the return on capital that would have been provided if the services had been furnished by a private firm.

(4) Interest on float must be charged at the Federal Funds rate.

In 1980, the Bank Board developed a methodology to determine compliance with these four principles, which is based on discounted cash flows from the NOW and DDA services. Since the FHLBanks had very few assets employed in the provision of these services and only projections of future income from NOW services, the methodology adopted at that time was appropriate. Compliance with the pricing principles focused on a five-year time span to recover all direct and indirect costs of these services.

At the end of 1985, the FHLBanks completed five years of NOW processing services. Both NOW services and DDA are mature activities with an asset base and normal income flows. In recognition of this evolution, the Bank Board developed an up-to-date methodology substantially similar to that adopted by the Federal Reserve Board to monitor pricing of these services.

The following section summarizes the adopted methodology, which will continue to ensure that FHLBank NOW and DDA services are not priced in a manner that would provide unfair competition to private firms.

Methodology

Two major issues arise in determining appropriate pricing methodology. First, competitor firms must be identified. Second, adjustment must be made for the taxes and return on capital that prices of competitor firms must cover. This adjustment is sometimes referred to as a Private Sector Adjustment Factor (PSAF).

The methodology was developed based on bank holding companies as competitor firms. Although firms in other industries could be chosen as competitors, commercial banks are generally the most frequent competitors in item processing and related services. Similarly, the Federal Reserve Bank also has chosen bank holding companies as competitors for development of

adjustments for taxes and the imputed cost of capital.

Adjustment for Taxes and Return on Capital

In order to compare competitor data to the FHLBanks, several broad assumptions were established as follows:

(A) NOW and DDA services may be combined under the Bank Board's pricing approval methodology.

(B) Compliance with NOW/DDA pricing guidelines is on an individual FHLBank basis.

(C) One set of bank holding company data will be applied to FHLBanks, rather than applying regional competitor data to regional FHLBanks.

(D) Federal Home Loan Bank data, which is required for the NOW/DDA pricing methodology, may be determined on an individual FHLBank basis as follows: (1) NOW/DDA prices; (2) earnings on balances generated from item processing; (3) direct and indirect costs; and (4) assets employed in NOW/DDA services.

Based on the previous assumptions, appropriate bank holding company data and FHLBanks data can be incorporated into the pricing methodology. The pricing methodology is as follows:

(A) Federal Home Loan Bank NOW/DDA costs are adjusted (increased) for the cost of financing the assets (primarily plant and equipment) employed in the provision of NOW/DDA services.

(B) NOW/DDA costs are increased for sales taxes that would have been paid if subject to such tax.

(C) NOW/DDA costs are adjusted for the cost of float at the Fed Funds rate.

(D) Imputed income taxes are applied to pre-tax NOW/DDA income using a three-year average from bank holding company data (33.5% rate).

(E) The after tax rate of return on capital from NOW/DDA services is compared to the after tax return on capital of bank holding companies (12.33% rate).

These adjustment factors ensure that the NOW/DDA services are priced in a competitive manner. Also, the factors are similar to the adjustments made by the Federal Reserve Board and represent a conservative approach consistent with the intent of Congress, that pricing encourage competition and efficiency in the provision of these services.

In accordance with these principles, the Director of the Office of District Banks and the Director of the Office of Policy and Economic Research have reviewed and approved the current prices for Federal Home Loan Bank services, which are published herewith. The services and their prices are divided into two categories: (1) NOW Services involved in the processing and settlement of items drawn on or issued by member institutions (Schedule A); and (2) services relating to demand deposit accounts and other services maintained by member institutions with the Banks (Schedule B).

The services described in the attached schedules are not identical for any two Banks, as each Bank's program is tailored to meet the needs of the member institutions in the Bank's district. Furthermore, the volume of services rendered varies significantly among the districts, with the result that the costs of providing the services also vary from district to district. In light of these considerations, the Board continues its practice of approving separate district fee structures rather than adopting a uniform pricing scheme. This policy is consistent with the congressional intent that pricing encourage competition.

It is not required that each processing step or transaction performed by a Bank be specifically priced. This policy permits the Banks to establish fee schedules that are in line with the marketing practices of providers of correspondent services in each district.

The directors of the Office of District Banks and the Office of Policy and Economic Research of the Federal Home Loan Bank Board hereby give notice of the following fee schedules for Federal Home Loan Bank services:

Schedule A: Item Processing and Settlement Services (1986 NOW Services)

District 1.—Federal Home Loan Bank of Boston (services not provided).

DISTRICT 2.—FEDERAL HOME LOAN BANK OF NEW YORK (1986 NOW SERVICES)

Service	Fee
Settlement (per month)	$100.00
Minimum Monthly Fee	100.00
Standard Intercept (per item)	.035
Standard Intercept-Delayed Check (per item)	.025
Check Safekeeping:	
First 100,000 items/month (per item)	.020
100,001 plus items/month (per item)	.010
Bulk Filing:	
First 100,000 items/month (per item)	.025
100,001 plus items/month (per item)	.015
Statement Rendering:	
Bulk Filing with items (per statement)	.30
Check Safekeeping without items (per statement)	.02
Item Returns (per item)	3.00
Item Returns without entry (per item)	6.00
Late Return Premium	2.50
FRB Large Dollar Notification	4.250
Photocopies (per copy)	2.50
Original Item Retrieval (per item)	4.00
Datafax High Dollar Items—Front only (per item)	1.50
Datafax High Dollar Items—Both Sides (per item)	2.00
Counter Item Filming (per item)	.025
Counter Item Sorting (per item)	.010
Notices or Advertising Inserts (per insert)	.010
Monthly History Microfiche (per 100,000 items)	5.00
Monthly History Microfiche—Additional Copies (per fiche card)	1.00
Held Paid Item Filming (per item)	.03

DISTRICT 3.—FEDERAL HOME LOAN BANK OF PITTSBURGH (1986 NOW SERVICES)

(For members located in the Third and Fourth Federal Reserve Districts)

Services	Fee
Processing:	
First 50,000 items/month (per item)	$0.0380
50,001-100,000 items/month (per item)	.0362
100,001-150,000 items/month (per item)	.0344
150,001-200,000 items/month (per item)	.0326
Over 200,000 items/month (per item)	.0308
Retail Truncated Checks (per item)	.039
Retail Non-truncated Checks (per item)	.049

DISTRICT 3.—FEDERAL HOME LOAN BANK OF PITTSBURGH (1986 NOW SERVICES)—Continued

(For members located in the Third and Fourth Federal Reserve Districts)

Services	Fee
Over-the-Counter Checks (per item)	.15
Return Call (per item)	.75
Late Return Call (per item)	.66
Items Over $2,500 Returned to FRB (per item)	4.25
Check Copies (per copy)	3.00
Check Retrieval (per item)	1.50
Statement & Report Postage	(1)
Statement Envelopes:	
Small (per envelope)	.05
Customized (per envelope)	.07
Large (per envelope)	.46
MICR Sort Option (monthly fixed fee per customer of thrift)	25.00
(per item)	.03
Mid-cycle statement rendering:	
Purged Statement (per item—minimum charge of $2.50)	.50
Non-purged Statement (per statement)	2.50
Minimum Charge: (per month)	200.00

[1] Actual.

NOTES: Transportation of checks or reports between Federal Home Loan Bank's designated distribution points and the individual financial institution is at the expense of the financial institution.

Until July 31, 1986, this fee schedule will be applicable for members located in the Third and Fourth Federal Reserve Districts, which include the states of Delaware and Pennsylvania and the West Virginia counties of Brooke, Hancock, Marshall, Ohio, Tyler and Wetzel. Effective August 1, 1986, this fee schedule will be applicable for all member institutions of the Federal Home Loan Bank of Pittsburgh.

(For members located in the Fifth Federal Reserve District)

Items/month	Daily return unsorted	Daily return sorted	Truncation	Bulk filing without stuffing	Bulk with stuffing
First 10,000	$.0375	$.0500	$.0500	$.0575	$.0875
Next 20,000	.0325	.0450	.0450	.0525	.0825
Next 20,000	.0300	.0425	.0425	.0500	.0800
50,001-Over	.0225	.0350	.0350	.0425	.0725

Special services	Fee
Check Retrieval or Inspection of Original Item	$1.50
Photocopy	2.50
Advertising Insertion (per item)	.01
Posted—"On-us" (per item)	.03
Statement Stuffing for Truncated Statements (per statement)	.01
Statement Stuffing of Deposit Tickets and Dishonored Notices (per item)	.09
Return Items Processed by Bank (per item)	2.50
Additional Sorting Upon Request:	
Fine Sorting (per item)	.005
Cycle Sorting (per item)	.005

NOTE: The Fifth Federal Reserve District includes all West Virginia Counties, with the exception of counties of Brooke, Hancock, Marshall, Ohio, Tyler and Wetzel. Effective August 1, 1986, this fee schedule will be applicable for all member institutions of the Federal Home Loan Bank of Pittsburgh.

DISTRICT 4.—FEDERAL HOME LOAN BANK OF ATLANTA (1986 NOW SERVICES)

Services	Fee
Settlement Only (per month)	$100.00
Daily Delivery (Same Day and Next Day):	
1st 50,000 (per item)	.040

DISTRICT 4.—FEDERAL HOME LOAN BANK OF ATLANTA (1986 NOW SERVICES)—Continued

Services	Fee
Over 50,000 (per item)	.035
Bulk Filing:	
1st 50,000 (per item)	.045
2nd 50,000 (per item)	.040
3rd 50,000 (per item)	.030
Over 150,000 (per item)	.025
Statement Matching:	
1st 50,000 (per item)	.070
2nd 50,000 (per item)	.065
3rd 50,000 (per item)	.055
Over 150,000 (per item)	.050
—Special Statements (IRA, Savings, etc.)	[3] .020
—Multiple Statement Inserts [1]	[3] .010
Truncation:	
1st 50,000 (per item)	.030
2nd 50,000 (per item)	.025
3rd 50,000 (per item)	.020
Over 150,000 (per item)	.015
Return Items	3.00
Large Dollar Return Items	4.00
Facsimile:	
—Large Dollar (per item)	2.50
—On Request (per item)	2.00
—Bookkeeping and Acc't No. Rejects (per item)	2.50
Over-the-Counter Items (per item)	.035
Photocopies (per item)	2.50
Without Entry Items [2]	3.50
Finesort (Check Number)—Special Accounts	.02
Custom Coding (for mergers, branch acquisitions and sales, etc.)	[4] 100.00
Special Requests (i.e., 50 or more photocopies per request or customer account, etc.)	[4] 25.00
Special Handling (if required by 2 or more account number formats resulting from mergers, conversions branch acquisitions, etc; *charging will begin four months after effective date if still required*)	[5] 500.00

[1] More than one insert per statement (first insert per statement is free).
[2] A Without Entry Item is a check which is sent back to the depositing institution to secure proper endorsement or obtain a refund for a forged endorsement or signature.
[3] Statement.
[4] Hour.
[5] Month.

NOTES.—The minimum monthly billing for service options (other than Settlement Only) is $100.00.

Prices for all options include data transmission to on-line or in-house processors.

Actual item delivery expense will be charged to the institution as incurred, including postage under "Statement Matching" above.

DISTRICT 5.—FEDERAL HOME LOAN BANK OF CINCINNATI (1986 NOW SERVICES)

[Service]

Items/Month	Daily return unsorted	Daily return sorted	Truncation	Bulk filing w/out stuffing	Bulk filing with stuffing
0–50,000	$.0375	$.0400	$.0400	$.0425	$.0775
50,001–100,000	.0225	.0250	.0250	.0275	.0625
100,001–150,000	.0125	.0150	.0125	.0175	.0525
150,001–over	.0065	.0080	.0080	.0115	.0465

Special services	Fee
Settlement Only (per month—flat fee)	$100.00
Check Retrieval or Inspection of Original Item (per item)	1.50
Photocopy (per copy)	1.00
Advertising Inserting (per item)	.02
Posted "on-us" (per item)	.03

Special services	Fee
Statement Stuffing Service for Truncated Statements (per statement)	.01
Statement Stuffing of Deposit Tickets and Dishonored Notices (per item)	.09
Return Items Processed by Bank (per item)	2.75
Additional Sorting Upon Request:	
Fine Sorting (per item)	.005
Cycle Sorting (per item)	.005
Large Dollar Return Notification (per item)	2.00

DISTRICT 6.—FEDERAL HOME LOAN BANK OF INDIANAPOLIS (1986 NOW SERVICES)

[Service]

Items per/month	Safe-keeping	Turn-around (daily or cycled)	Com-plete
0 to 5,000	$.045	$.053	$.077
5,001 to 10,000	.037	.048	.075
10,001 to 15,000	.036	.044	.073
15,001 to 25,000	.031	.037	.072
25,001 to 50,000	.030	.033	.070
50,001 to 75,000	.026	.030	.066
75,001 to 100,000	.023	.027	.065
100,001 to 125,000	.021	.024	.064
125,001 to 150,000	.019	.022	.063
150,001 to 175,000	.017	.020	.062
175,001 and up	.014	.016	.059

Ancillary service	Fee
Settlement Only (per month)	[1] $100.00
Minimum Processing Fee (per month)	40.00
Over-the-Counter Items (per item)	.035
No MICR/OTC	.50
Exception Accounts	.50
Photocopies and Facsimiles	2.00
Facsimile Items for Signature Verification on Day of Presentment	[2]
Return Items	2.50
Certified Checks	1.00
Late Returns	.25
Invalid Returns	.50

[1] Plus $2.00/transaction.
[2] No charge.

DISTRICT 7.—FEDERAL HOME LOAN BANK OF CHICAGO (1986 NOW SERVICES)

[Service]

Items per month	Daily returns	24-hour delay	Bulk file	Trun-cation
0 to 50,000	$.025	$.024	$.023	$.020
50,001 to 100,000	.024	.023	.022	.019
100,001 to 200,000	.023	.022	.021	.018
200,001 to 300,000	.022	.021	.020	.017
300,001 to 400,000	.021	.020	.019	.016
400,001 and over	.020	.019	.018	.015

Note: (10% discount per item when monthly volumes exceed 500,000 items.)

Ancillary Service	Fee
Counter Items (per item)	$0.01
Return Items (per item)	4.00
Statement Preparation (per item)	.025
Photocopies (per item)	3.00
Facsimile of items (per page)	2.00
Cash Letter Facsimile (per page)	2.00
Special Sorts (per item)	.0075
Monthly Recap (per item)	.0025
Data Transmission (per item):	
0–10,000 items ($10 month minimum)	.004
10,001–50,000 items ($50 month minimum)	.004
50,001–100,000 items (no minimum)	.003
100,001 or more items (no minimum)	.002
NOW settlement only (per month)	(1) 200.00
Dial-A-Statement:	
(per month) or	25.00
(per year) or	250.00
(per statement)	1.00

[1] Settlement service included in item processing fee.

DISTRICT 8.—FEDERAL HOME LOAN BANK OF DES MOINES (1986 NOW SERVICES)

[Services]

Item processing monthly volume level	Basic fee (truncated)	Daily cycle[1,2]	Cycle/Monthly[2]	Return Items	
				Monthly Volume Level	Fee
1 to 25,000	$.021	$.017	$.020	1–2,000	$2.50
25,001 to 50,000	.017	.013	.016	2,001–3,000	2.00
50,001 to 75,000	.015	.011	.014	3,001–4,000	1.50
75,001 to 175,000	.013	.009	.012	4,001–7,500	1.00
175,001 to 400,000	.012	.008	.011	7,501 and over	.75
400,001 to 750,000	.010	.007	.010		
750,001 to 1,100,000	.009	.006	.009		
1,100,001 to 1,500,000	.008	.005	.008		
1,500,001 and over	.006	.004	.007		

[1] 15% surcharge for same day daily return.
[2] Fees for daily and cycle/monthly return are in addition to the basic fee.

OTHER SERVICES

Service	Fee
Posting File (per item)	$.0005
Reject Re-entry (per reject)	.04
Stop Payments (per stop)	5.00
Large Dollar Notification (per notification)	3.00
Photocopies/Microfilm Copies (per copy)	2.75
Counter Items With Microfilm (per item)	.04
Counter Items Without Micr Encoding (per item)	.10
Original Item Return (per item)	2.75
Certified Checks (per item)	.50
Signature Verification (per page)	1.00
Fascimile Transmission (per transmission)	1.50
Telephone Advice on Missing Account No. (per item)	.50
Telephone Check Inquiry (per inquiry)	1.00
Daily Settlement Reporting (per month)	25.00
Microfiche—Monthly Reports (per month)	25.00
Microfilm (per item)	.01
Research/Audit (per hour)	20.00

Minimum charge of $250.00 per month will apply for total NOW services.

DISTRICT 9.—FEDERAL HOME LOAN BANK OF DALLAS (1986 NOW Services)

Basic service—items/month	Service	
	Cycle-daily [1]	Truncated
Tier 1: 0 to 50,000	$0.0375	$0.0315
Tier 2: 50,001 to 100,000	.0300	.0250
Tier 3: 100,001 to 150,000	.0250	.0200
Tier 4: 150,001 to 200,000	.0200	.0150
Tier 5: 200,001 and Over	.0140	.0100
Commercial Accounts (additional per item)		.0200
Counter item integration		.0375

[1] An additional $.006 for month end.

Return	Items/month	
Tier 1	1-500	$3.00
Tier 2	501-1,000	2.00
Tier 3	1,001 & over	1.50

No extra charge for high dollar return item notification under Reg J or for the Dallas Federal Reserve Bank's $0.50 return item charge under its pilot program.

Special Services (per item)	Fee
Photocopies or original check retrieval	$1.50
Account number rejects (effective 10/1/86)	1.00
Large dollar facsimile (per page)	1.00
Settlement only (non-processing customers per month)	50.00

DISTRICT 10.—FEDERAL HOME LOAN BANK OF TOPEKA (1986 NOW SERVICES)

Return items per month	Fee per item
Processing fees:	
1 to 50	$2.50
51 to 2500	1.00
2501 to 4000	.75
4001 to 5000	.50
5001 to 6000	.50
6001 to 8000	.25
8001 to 12000	.20
12001 & over	.15

Items per month (per item)	Truncated	Cycled
1 to 10,000	$.020	$.035
10,001 to 25,000	.018	.034
25,001 to 50,000	.015	.031
50,001 to 100,000	.013	.026
100,001 to 200,000	.011	.020
200,001 to 250,000	.011	.020
250,001 to 300,000	.010	.015
300,001 to 500,000	.010	.015
501,001 to 750,000	.009	.013
750,001 to 1,000,000	.008	.011
1,000,001 & over	.007	.010

	Fee
Other services:	
Minimum Monthly Processing Fee	$500.00
Settlement—(w/FHLB processing)	(1)
Settlement Only (per month)	100.00
Item Retrieval (Photocopy—per item)	2.00
Mass Photocopy Requests:	
(per hour)	12.00
(per item)	.015
Over-the-counter items (Microfilmed and Filed—per item)	.03
Facsimile transmissions (listing of paid items—per transmission)	1.50
Large item return notification (per item over $2500	3.00

[1] No charge.

DISTRICT 11—FEDERAL HOME LOAN BANK OF SAN FRANCISCO (1986 NOW SERVICES)

Service	Volume price based on total items per month			
	0 to 49,999	50,000 to 500,000	500,001 to 750,000	750,000 plus
Basic capture service (min. charge $500/mo.):				
Capture/finesort/microfilm	$0.042	$0.037	$0.032	$0.024
Return item processing	2.00	1.75	1.50	1.25
Comprehensive NOW service (min. charge $750/mo.):				
Capture/file/microfilm/fine sort	.042	.037	.032	.024
Statement preparation (truncated)	.15	.14	.13	.12
Statement preparation (standard)	.35	.30	.28	.26
Return item processing	2.00	1.75	1.50	1.25
Over-the-counter items	.045	.045	.045	.045
Statement inserts	.03	.03	.03	.03

Miscellaneous services	Fee
Late return item transmission—after 2:00 p.m. (per item)	$0.25
Second request on previously reconciled adjustment (per occurrence)	10.00
Truncated item retrieval (per item)	3.00
Generic envelopes (each)	.025
Reconciliation of member books—special research (per hour)	25.00
Microfilm:	
Second copy of film daily (per month)	75.00
Special request copy (per copy)	5.00
Same day microfiche:	
2 copies with hardcopy processed item listing and exceeded dollar report (per month)	75.00
Hardcopy exceeded dollar report only (per month)	65.00
Additional microfiche (per copy)	1.00
Special fine sort (per item)	.04
Photocopies (per copy)	2.50
Non-standard statement inserts (per insert)	.05
MICR line alterations (per item)	4.00
Suplementary Service Fees	
Thirty day advance notice is required on all branch sales, branch mergers, branch acquisitions or service bureau changes.	

Miscellaneous services	Fee
Custom Programming:	
1. Breakout of items by routing transit number and/or branch number (incl. listing)	2,000.00
2. Breakout and capture of items (Processed items list/microfilm/commingled with other items for service bureau)	3,000.00
3. Breakout, capture, and separate tape produced, including above items	4,500.00
4. Selective account programming (mixiumum 50 accounts) in addition to regular programming requirements	1,500.00
5. One-half of the original programming fee will be assessed in the event of a cancellation notice given less than 7 days in advance of effective date.	
Statement Handling:	
Set-up fee/branch outsort of items	250.00
Standard statement rendition (close-out statements) (each)	.50
Non-standard statement rendition:	
First 90 days (each)	.75
After 90 days (each)	1.00

DISTRICT 12.—FEDERAL HOME LOAN BANK OF SEATTLE (1986 NOW SERVICES)

Service item	Fee
Base Per Item Fees:	
Daily Return of Items to Member (per item)	$0.025
Truncation of all Items by Bank (per item)	.025
Bulk File of Items, Returned to Member (per item)	.030
Bulk File of Items with Statement Handling (per item)	.050
Truncated Account Statement Handling (per statement)	.060
Volume Credits Per Item:	
25,001 to 50,000 items per month (per item)	.0025
50,001 to 75,000 items per month (per item)	.0025
75,001 to 100,000 items per month (per item)	.0025
100,001 to 200,000 items per month (per item)	.0025
200,001 to 400,000 items per month (per item)	.0050
400,001 to 600,000 items per month (per item)	.0050
600,001 or more items per month (per item)	.0025
Other Fees:	
Large Dollar Amount and Other Special Verifications (each)	.75
Return (overdraft, etc.) Item Handling (each)	.80
Photocopy Requests (NOW User) (each)	1.00
Research Requests (NOW User) (each)	1.00
Photocopy Requests (non-user) (each)	5.00
Research Requests (non-user) (each)	5.00
Special Fine Sorts (per item)	.01
Burst or Fold only for Statements (per statement) (Minimum of $30.00 per month)	.005

Schedule B: Demand Deposit and Other Services (1986 DDA Services)

DISTRICT 1.—FEDERAL HOME LOAN BANK OF BOSTON

Services	Fee
Checks and Items Paid (per item)	$.13
Deposits (per item)	.20
Debit/Credit Memos:	
Federal Reserve Settlement (per item) [1]	.40
Internal Transfers and Zero Balance Transfers	([2])
Others (per item)	.10
Wire Transfer:	
In (per item)	3.50
Out (per item)	6.00
International Wire Transfers	([3])
Account Maintenance (per month)	6.50
Special Statements (per statement)	2.50
Stop Payment Orders (per item)	8.50
Account Reconciliation:	
Paper Issues (per item)	.065
Magnetic Tape Issues (per item)	.035
Voided Items Input	([2])
Look-up and Photocopies of Checks (per item)	2.50

[1] Federal Reserve Settlements include ACH, Series E-Bond Redemption, Cash Letter Settlements (Inclearings and Outclearings), Regulation D Reserve Pass-Throughs, Treasury Tax and Loan Settlements.

[2] No charge.

[3] Fee varies based on current international rates and cable remittance fees.

NOTES.—All collected IDEAL WAY deposits earn immediate interest paid in hard dollars monthly via credit to the member's account at month end.

Interest Rates are set daily.

Fees for services are paid in hard dollars monthly via a debt to the member's account.

DISTRICT 2.—FEDERAL HOME LOAN BANK OF NEW YORK (1986 DDA SERVICES)

Service		Fee
DEPOSIT SERVICES		
Per Item Fees	Unencoded	Encoded
First 100,000 items/month	$0.070	$0.050
100,001 to 300,000 items/month	.065	.045
300,001 plus items/month	.060	.040
Special Service Fees:		
Saturday Premium (per item)		$0.01
Cash Letter Deposit (per deposit)		.50
Return Item (per item)		1.25
Return Item (unendorsed) (per return)		8.75
Non Cash Collection (per item)		3.50
Security Coupon Collection (per envelope)		3.50

DISTRICT 2.—FEDERAL HOME LOAN BANK OF NEW YORK (1986 DDA SERVICES)—Continued

Service		Fee
Photocopies (per copy)		5.00
Lockbox Service: [3]		
Remittance Processing (per item)		.125
Check Deposit (per check)		.050
Return Item (per check)		1.250
Exception Item (per item)		.100
Photocopies (per copy)		5.000
Coupon Format Set Up (one-time fee) (per format)		250.000
Coin & Currency Service:		
Shipments		([1])
Cash Order [2] (per order)		6.50
Cash Return (per return)		3.00
Rolled Coin (per roll)		.05
Deposits:		
Currency Verification (per $1,000)		.35

DISTRICT 2.—FEDERAL HOME LOAN BANK OF NEW YORK (1986 DDA SERVICES)—Continued

Service	Fee
Coin Verification (loose coin) (per bag)	.35
Coin Verification (rolled coin) (per bag)	10.00
DISBURSEMENT SERVICES	
Checks and Money Orders:	
First 10,000 items/month (per item)	.22
10,001 plus items/month (per item)	.17
Zero Reconcilement Premium:	
Issuance reported via magnetic tape (per item)	.03
Issuance reported via paper (per item)	.05
FUNDS TRANSFER	
Wires In (per wire)	1.50
Wires Out (per wire)	7.00
Safekeeping Services:	
Maintenance:	
Less than 25 securities (per month)	33.00
More than 25 securities (per month)	75.00
Per Item Charge:	
Physical securities (per month)	5.00
Book entries (per month)	2.50
Purchases and Sales (per transaction)	30.00
Marturities (per transaction)	10.00
Coupons (per transaction)	4.00
MISCELLANEOUS CORRESPONDENT SERVICES	
Depository Transfer Checks (per check)	3.00
Savings Bond Redemption (per transmittal)	3.00
Federal Recurring Payments (per transaction)	3.00
Automated Clearing House Transactions (per transaction	3.00
Treasury TAX and Loan Accounts (per transaction)	3.00
Electronic Balance Reporting (Consolidated Balances and Transaction Detail)	[4]

[1] Price varies by location.
[2] Cash orders must be placed and funded one day prior to delivery.
[3] A minimum monthly service charge of $250 applies to the Lockbox Service.
[4] Fees for special services will be negotiated based on the number of transactions.

DISTRICT 3.—Federal Home Loan Bank of Pittsburgh (1986 DDA Services)

Service	Fee
Deposit Processing Service:	
Deposit Ticket Entry (per entry)	[1]
Deposit Transfer Voucher (per entry)	$1.75
Mail Deposit Ticket Entry (per entry)	2.25
Deposit Item Processing (per item)	[1]
Deposit Item Encoding (per item)	[1]
Deposit Item Return (per item)	[1]
Deposit Item Photocopy (per item)	[1]
Deposit Pickup (per pickup)	[1]
Check and Money Order Clearing Service:	
Clearing Item Processing (per item)	.11
Clearing Item Reconciliation Copy Processing By Manual Input (per item)	.06

DISTRICT 3.—Federal Home Loan Bank of Pittsburgh (1986 DDA Services)—Continued

Service	Fee
By Magnetic Tape Input (per item)	.03
Clearing Item Fine Sorting for Return with Bank Statements (per item)	.06
Stop Payment Orders (per entry)	9.75
Imprinting Checks and Money Orders	(2)
Standard Earnings Checks (per item)	(1)
Wire Transfer of Funds:	
Outgoing Wires:	
Receiving Bank On-line (Federal Reserve) (per transfer)	6.00
Receiving Bank Off-line (Federal Reserve) (per transfer)	9.25
Incoming Wires (per transfer)	3.50
ACH Debit/Credit (per item)	.05
Lockbox Service:	
Lockbox Item Processing (per item)	(1)
Deposit Item Processing (per item)	(1)
Deposit Ticket Entry (per entry)	(1)
Transportation (per month) (per institution)	(1)
Account Maintenance (per acct./month)	8.00
Account Overdraft Penalty	(3)

[1] No charge.
[2] Direct cost pass-through from supplier.
[3] Greater of $75 or interest for one day on the amount of the overdraft at the highest advance rate plus 3%.

Service	Fee
Collection Service:	
Foreign Items	
West (drawee bank charges)	(1)
East (drawee bank charges)	(1)
Bonds (East Only) (per bond)	(2)
Bond Coupons	
West (per envelope)	(2)
East (per envelope)	(2)
Eastern Coin and Currency Service:	
Requisition	
Currency (per strap)	(2)
Coin (per box)	(2)
(per bag)	(2)
Deposit	
Currency/Food Coupons (per $1,000 or part thereof)	(2)
Coin (per bag)	(2)
Transportation	
Zone 1 (per stop)	(2)
Zone 2 (per stop)	(2)
Western Coin and Currency Service:	
Requisition	
Currency (per $1,000 or part thereof)	(2)
Coin (per box)	(2)
Deposit (per $1,000 or part thereof)	
Currency	(2)
Coin	
Unsorted	(2)
Sorted	(2)
Food Coupons	
Unsorted	(2)
Sorted	(2)
Transportation	
Western Pennsylvania (per stop)	(2)
Western Virginia	
Zone 1 (per stop)	(2)
Zone 2 (per stop)	(2)

[1] No Item Charge, But Drawee Bank Charges are assessed.
[2] No charge.

Service	Fee
Safekeeping and Investment Service:	
Trade Executed (per transaction)	$10.00
Receipt of Security	
Physical Form (per transaction)	14.00
DTC (per transaction)	[1]
Book Entry (per transaction)	8.00
Delivery of Security	
Physical Form (per transaction)	14.00
DTC (per transaction)	[1]
Book Entry (per transaction)	8.00
Redemption at Maturity	
Physical Form (per transaction)	14.00
DTC (per transaction)	[1]
Book Entry (per transaction)	8.00
Income Collection	
Physical form (per collection, per issue)	[1]
DTC (per collection, per issue)	4.00
Book entry (per collection, per issue)	[1]
Safekeeping Account Maintenance (per month)	10.00
Switch Account/Pledge	
Physical Form (per transaction)	12.00
Book Entry (per transaction)	[1]
Retail-Repo Custodial Service (per month)	[1]
Safekeeping Charge for Advance Collateral:	
Assignment of Outstanding Advances, Advance Commitments, Letters of Credit, and Interest Rate Swaps	[2]
Physical Delivery of Outstanding Advances, Advance Commitments, Letters of Credit, and Interest Rate Swaps	[3]

[1] No charge.
[2] Greater of $2.00 per million or $10.00 per month.
[3] Greater of $4.00 per million or $10.00 per month.

DISTRICT 4.—FEDERAL HOME LOAN BANK OF ATLANTA (1986 DDA SERVICES)

Service	Fee
Checks paid [1] (per item):	
Monthly statement with items fine sorted	$0.12
Monthly statement with items truncated	.08
Photocopies (non-truncated accounts only) (per item)	2.00
Stop payment (per item)	8.00
Without Entry Items	[2] 3.50
Deposit Transfer Checks (DTC) (per item)	4.00
Wire Transfers:	
In (per item)	[3] 3.00
Out (per item)	[3] 4.00
Phone advice (per item)	[3] 2.50
Account Reconciliation Service:	
Full reconciliation—magnetic tape ($20.00 min./mo.) (per issue)	.0325
Full reconciliation—paper issue ($20.00 min./mo.):	
—Encoded amounts (per issue)	.0475
—Unencoded amounts (per issue)	.07
Partial reconciliation ($10.00 min./mo.) (per paid item)	.03
Deposit Processing:	
Unencoded checks (per item)	[3] .06
Encoded checks (per item)	[3] .04
Foreign checks (per item)	3.50
Bond coupons (per envelope)	3.50
Deposited checks returned (per entry)	2.50
Automated Clearinghouse (ACH) Service:	
Originating—$15.00 per tape plus (per item)	.07
Receiving—$100.00 settlement per month plus (per item)	.05
Settlement Only Services:	
Automated Clearinghouse (ACH) (per month)	100.00
Currency and Coin (per month)	100.00
Treasury Tax and Loan (TT&L) (per entry)	3.50
Savings Bonds (per entry)	3.50
Deposit of items at Fed (per month)	100.00
Non-cash collections (per entry)	3.50
Currency and Coin Service (Full): $100.00 settlement/month plus (per order)	3.50

[1] The Checks paid charge includes at no additional charge: monthly account maintenance, internal transfers, special statement drops, and return of items not paid.

[2] A "Without Entry Item" is a check which is sent back to the depositing institution to secure proper endorsement or to obtain a refund for a forged endorsement or signature.

[3] Federal Reserve charges are reflected in these prices. Any changes in Federal Reserve prices may result in adjustments to these prices.

NOTES.—Overdrafts incur a penalty calculated at 4% over the current short-term variable advance rate, with a minimum charge of $50.00 per occurrence.

Check printing costs are charged directly to the institution, with no additional fee.

Special services will be charged on an hourly basis.

Magnetic tapes sent to members and not returned to the Bank within 90 days will be billed at $12.00 per tape.

DISTRICT 5.—FEDERAL HOME LOAN BANK OF CINCINNATI (1986 DDA SERVICES)

Demand deposit account services	Per item charge
Reconciled Paid Items	$.070
Magnetic Tape Reconciliation	.045
Advice Reconciliation	.045
Fine Sorting	.005
Check and Money Order Safekeeping	(1)
Stop Payments	5.00
Wire Transfer-In	2.00
Wire Transfer-In—Telephone Confirmation	3.00
Wire Transfer-Out	5.00
Charges	.11
Credits	.11
Photocopies	1.00
Large Dollar Return Notification	2.00
Settlement Agent with Federal Reserve:	
ACH (per active month)	100.00
Treasury Tax and Loan (per active month)	50.00
Bond Redemption (per active month)	50.00
Currency and Coin (per active month)	75.00
Check Deposits (per active month)	200.00

[1] No charge.

NOTE.—IFTS Interest: Members' daily collected funds in excess of their compensating balance automatically earn IFTS interest.

(Check Deposit Service)

Cincinnati operations center	Fee	
	Unencoded	Encoded
Cincinnati City	$.025	$.015
Cincinnati RCPC (Special)	.025	.015
U.S. Treasury	.025	.015
Cincinnati RCPC	.045	.035
Columbus City/RCPC	.045	.035
Louisville City/RCPC	.045	.035
Other FRB (1-Day)	.080	.070
Other FRB (2-Day)	.090	.080

Volume discounts on all items when total deposited items fall within below listed categories.

Discount	Monthly volume range
7.5%	100,001–200,000
15.0%	200,001+

Additional services	Per item charge
Photocopy (per item)	$1.00
Dishonored Items:	
Returned to Association (per item)	1.00
Automatically Re-deposited	(1)
Non-Cash Collection Service—Minimum:	
Non-Cash Item (per item)	3.50
Security Coupon Collection (per envelope)	3.50
Coupon Return Item (per item)	5.00
Foreign Item (per item)	2.50
U.S. Treasury and Gov't Agency Coupons	(2)
Depository Transfer Checks (DTC) (per item)	3.00
Cash Letter Fee (per letter)	(3).50

[1] Check deposit per item fee.
[2] No charge.
[3] $.25 per "Cash Letter" when depositing over 100,000 items per month.

(Check Deposit Service)

Cleveland Operations Center	Fee	
	Unencoded	Encoded
Cleveland City	$.025	$.015
Cleveland RCPC (Special)	.025	.015
U.S. Treasury	.025	.015
Cleveland RCPC	.045	.035
Columbus City/RCPC	.045	.035
Other FRB	.080	.070

Volume discounts on all items when total deposited items fall within below listed categories.

Discount	Monthly volume range
7.5%	100,001-200,000
15.0%	200,001+

Additional services	Per item charge
Photocopy (per item)	$1.00
Dishonored Items:	
Returned to Association (per item)	1.00
Automatically Re-deposited	(1)
Non-Cash Collection Service—Minimum:	
Non-Cash Item (per item)	3.50
Security Coupon Collection (per envelope)	3.50
Coupon Return Item (per item)	5.00
Foreign Item (per item)	2.50
U.S. Treasury and Gov't Agency Coupons	(2)
Depository Transfer Checks (DTC) (per item)	3.00
Cash Letter Fee (per letter)	(3).50

[1] Check deposit per item fee.
[2] No charge.
[3] $.25 per "Cash Letter" when depositing over 100,000 items per month.

(Check Deposit Service)

Nashville operations center	Fee	
	Unencoded	Encoded
Nashville City	$.035	$.025
Nashville RCPC	.045	.035
U.S. Treasury	.025	.015
Nashville NOW On-Us	.025	.015
DDA On-Us	.025	.015
Other FRB	.075	.065

Volume discounts on all items when total deposited items fall within below listed categories.

Discounts	Monthly volume range
7.5%	100,001-200,000
15.0%	200,001+

Additional services	Per item charge
Photocopy (per item)	$1.00
Dishonored Items:	
Returned to Association (per item)	1.00
Automatically Re-deposited	(1)
Non-Cash Collection Service—Minimum:	
Non-Cash Item (per item)	3.50
Security Coupon Collection (per envelope)	3.50
Coupon Return Item (per item)	5.00
Foreign Item (per item)	2.50
U.S. Treasury and Gov't Agency Coupons	(2)
Depository Transfer Checks (DTC) (per item)	3.00
Cash Letter Fee (per letter)	(3).50

[1] Check deposit per item fee.
[2] No charge.
[3] $.25 per "Cash Letter" when depositing over 100,000 items per month.

(Currency and Coin Service)

Preparation Charge	Fee
Members in Kentucky & Ohio:	
Currency (per order)	$7.50
Wrapped coin (per box)	1.50
Pick-up of Coin and Currency:	
Strapped currency (per strapped deposit)	$5.00
Currency (per mixed or unfilled straps)	6.00
Coin (same denomination) (per bag)	2.00
Coin (mixed denomination) (per bag)	4.00

Transportation Charge.—Please contact the Bank for the specific fee relative to your area.

Preparation Charge	Fee
Members in Nashville Federal Reserve Territory:	
Currency and/or loose coin (per order)	$2.00
Wrapped coin (per roll)	.0355
Pick-up Currency and Coin (per occurence)	1.00

Transportation Charge.—Please contact the Bank for the specific fee relative to your area.

Safekeeping Service:	
Receive or Deliver (Per Transaction):	
Book Entry	$12.00
Physical	25.00
Redemption (Per Transaction):	
Book Entry	$15.00
Physical	25.00
Interest Coupons (Per Transaction)	$2.50
Pledges (Per Transaction):	
Book Entry	$15.00
Physical	25.00
Account Maintenance (per month)	15.00
Safekeeping Account Maintenance (per month)	$25.00
Retail Repurchase Account Maintenance (per month)	$15.00
Contemporaneous Reserve Settlement (per month)	$75.00
Lockbox Services:	
OCR Standard Item Fee	$.15
Includes.—Courier pickup at lockbox, Microfilming of check and document, Transmission to service bureau, Management reports, Check deposit fee (encoding & clearing), Certain exception handling:	
Additional Services/Fees:	
Lockbox rental	(1)
Photocopies (per copy)	$1.00
Hot File Update (Add or Delete) (per update)	.50
Hot File Update (Magnetic Tape) (per tape)	10.00
Courier/postage	(2)
Dishonored Check Item:	
a. Returned to Association (per item)	1.00
b. Automatically Re-deposited (per item)	(3)
Reject or Unmatched Item	(4)
Other desired services	(2)

[1] Actual cost prorated among users.
[2] Actual cost.
[3] The per item check processing fee for the member's region.
[4] No fee.

NOTE.—The Bank will allow members to be charged implicitly or explicitly in the same form and manner as other correspondent services.

District 6.—FEDERAL HOME LOAN BANK OF INDIANAPOLIS (1986 DDA SERVICES)

Cash management service	Paid check charge	Advices	
		Paper	Tape
Quarterly transaction volume:			
First 3,750	$.13	$.05	$.025
Next 9,000	.11	.04	.02
Next 12,250	.09	.04	.02
Next 25,000	.08	.03	.015
All over 50,000	.07	.02	.01
Stop payments—$2.00			

Other services	Detroit	Indianapolis
Transit Item Deposit Program:		
Pre-encoded:		
City Items	$.021	$.02
RCPC Items	.02	.02
Other District Items	.052	.05
Encoding Errors	.30	.30
Unencoded:		
City Items	.068	.06
RCPC Items	.068	.06
O.D. Items	.068	.06
Return Items	.75	.75
Demand Deposit Services:		
Transaction Charges		(1)
Lockbox Services:		
Per Deposit Item Received		$.18
Truncation of Coupons		.02

Other services	Detroit	Indianapolis
Coin and Currency Program:		
Metropolitan areas of Indianapolis & Detriot—per delivery by armored truck service		$25.00
Outside Metropolitan areas: Fees vary depending upon the distances involved		
Wire Transfer Services:		
In (per transfer) Domestic		2.00
Out (per transfer) Domestic		4.00
International Wires		17.00
Depository Transfer Checks: (per check)		2.00
Automated Clearinghouse (ACH) Service:		
Per Tape		5.00
Per Item (Originator)		.02
Settlement Only		50.00
Treasury Tax and Loan Settlement Service: (per transaction)		2.00

[1] Fee.

DISTRICT 7.—FEDERAL HOME LOAN BANK OF CHICAGO (1986 DDA SERVICES)

Services—monthly volume	Fee	
	Nontruncated accounts	Truncated accounts
A. Demand Accounts		
Items Processed:		
0 to 7,500	$0.110	$0.090
7,501 to 10,000	.100	.08
10,001 to 12,500	.090	.070
12,501 to 15,000	.080	.060
15,001 to 25,000	.075	.055
25,001 and over	.070	.050
Alternative Demand Disbursement Service:		
800 Series—Next Day Remittance		[1]
900 Series—Three Day Remittance (per item issued)		.050
Ancillary Services Fees:		
Special Sorts (per item)		.0075
Recons:		
—Non-Encoded Items (per item)		.055
—Encoded Items (per item)		.020
—Magnetic Tape Items (per item		.020
Stop Payments (per stop placed)		7.00
Photocopies (per item)		3.00
Account Maintenance (per account per month)		10.00
Additional Statements (per statement)		5.00
Request for Money Order Forms		[2]
Postage/Courier		[2]
ACH Services		[2]
Dial-A-Statement:		
per month or		25.00
per year or		250.00
per statement		1.00
B. Deposit Processing		
Checks Deposit Drawn on:		
Federal Home Loan Bank of Chicago, FHLB Intercept Customers, Postal Money Orders		.015
U.S. Treasury Check		.015
City of Chicago Financial Institutions:		
0–10,000		.032
10,001–25,000	.030	
25,001 and over		.028
Non-Federal Reserve Chicago RCPC (clearinghouse items):		
0–10,000		.037
10,001–25,000		.035
25,001 and over		.033
Chicago RCPC Financial Institutions (Routing Numbers 0711, 0712, 0719, 2711, 2712, 2719):		
0–10,000		.049

DISTRICT 7.—FEDERAL HOME LOAN BANK OF CHICAGO (1986 DDA SERVICES)—Continued

Services—monthly volume	Fee	
	Nontruncated accounts	Truncated accounts
10,001-25,000		.047
25,001 and over		.045
Transit Items—Other Federal Reserve Office Financial Institutions:		
0-10,000		.079
10,001-25,000		.077
25,001 and over		.075
Selected High Dollar ($10,000 and over) End Points		.035
Ancillary Service Fees:		
Check Encoding (per item)		.035
Return Items:		
Re-Deposits		(1)
Charge Backs (per item)		1.00
Food Stamps Deposited (per item)		.02
Noncash Collection Items (coupons and foreign items) (per item)		2.50
Coin and Currency Orders (per order/per branch)		2.00
Visa/Mastercard Deposits		2.00
Quick Deposit Drafts		2.00
C. Money Transfers:		
Wire Transfers:		
In		2.00
With Telephone Advice		4.00
Out		4.00
With Telephone Advice		6.00
Quick Deposit Drafts		2.00
D. Safekeeping		
Receipt or Delivery:		
Books Entry Item		30.00
Physical Item		40.00
Coupon Collection		5.00
Collection at Maturity		(1)
Annual Maintenance (billed quarterly):		
Par Amount Under $5 million		150.00
Par Amount $5 million or Over (per million)		40.00
Monthly Reports		(1)
Registration Fees		(2)
Transfer to or from Pledge Status		60.00
Maintenance of Collateral for FHLB Advances:		
Place Note and Mortgage in Vault:		
Deliver with listing only		1.00
Deliver with listing and computer tape		.75
Remove Note and Mortgage from Vault		.75
Annual Maintenance Charge (per quarter)		.30

[1] No Charge.
[2] Actual cost.

DISTRICT 8.—FEDERAL HOME LOAN BANK OF DES MOINES (1986 DDA SERVICES)

DDA Service activity	Fee
Account Maintenance	$5.00
Account Reconciliation	5.00
Check Printing Costs	(1)
Drafts Paid:	
Truncated	.04
Non-Truncated	.05
Stop Payments	5.00
Ledger Credits	.20
Ledger Debits	.10
Bankwires in:	
—Without Phone Advice	2.50
—With Phone Advice	3.50

DISTRICT 8.—FEDERAL HOME LOAN BANK OF DES MOINES (1986 DDA SERVICES)—Continued

DDA Service activity	Fee
Bankwires Out:	
—Without Phone Advice	4.00
—With Phone Advice	6.00
Special Cut-off Statements	3.00
Account Reconciliation Tape Issues	.02
Issue Encoding	.04
Safekeeping Transactions	10.00
Retail Repurchase Transactions, (per page) plus $25.00 Main. Fee	.25
Microfilm Processing	4.00
Microfilm Duplication	5.00
ACH Transaction	(1)
Miscellaneous Charges/Special Processing	(1)
Controlled Disbursement Drafts	.055
Pre-encoded Issues	.03
Pledge Agreements	20.00
ACH Settlement Charges	.50

[1] Actual cost.

Proof of deposit service	Fee
Entry Fee for all items	$.003
Re-enter Rejects	.04
Encoding Fee (Des Moines, Minneapolis & St. Louis)	.0225
Encoding Fee (Kansas City)	.025
Data Transmission (per transmission)	1.50
Fine Sort "on-us" items	.005
Printed Reports—Standard (per report)	1.00
plus (per page)	.05
Optional	(1)
plus (per page)	.05
Minimum monthly biling	40.00
Facsimile Transaction (per transmission)	1.50
Account Transaction Info. (per call)	1.00
Miscellaneous Charges/Special Processing	(2)
Food Stamps Deposited (Des Moines, Kansas City, and St. Louis)	.02
Food Stamps Deposited (Minneapolis)	2.04
Coupons/Per Envelope	2.50

[1] At a quoted rate.
[2] Actual cost.

	Minneapolis	Des Moines	St. Louis	Kansas City
Deposited Item Charges:				
Local	$.020	$.025	$.025	$.019
Regional	.0375	.035	.030	.....
Regional Premium	.050	.04	.035	.....
Country	.045	.....	.0325	.029
Out of State	.080	.0525	.067	.079

DEPOSIT PROCESSING FEE SCHEDULE

Check clearing fees	Encoded	Unencoded
a. Des Moines Center (1)		
Local	$.025	$.0475
Regional	.035	.0575
Regional—Premium	.040	.0625
Transit	.0525	.075

[1] At a quoted rate.
[2] Actual cost.
[3] A 10% discount per item on processing fees only is given when monthly volume exceeds 200,000 items.

Check clearing fees	En-coded	Unen-coded
b. Minneapolis Center [1]		
Local	$.020	$.0425
Regional	.0375	.060
Regional—Premium	.050	.0725
Country	.045	.0675
Transit	.080	.1025
c. Kansas City Center [1]		
Local	.019	.044
Country	.029	.054
Transit	.079	.104
d. St. Louis Center [1]		
Local	.027	.0495
Regional	.030	.0525
Regional—Premium	.035	.0575
Country	.0325	.055
Transit	.067	.0895

[1] A 10% discount per item on processing fees only is given when monthly volume exceeds 200,000 items.

Other Fees at the Four	Fee
Regional Processing Centers:	
Return Items	$.75
Food Coupons	.02
Bond Coupons (per envelope)	2.50
Large Dollar Notification (Reg. J)(per item)	3.00
Return Items—Special Handling:	
Subtotal by office	1.50
Individual Entries (per entry)	.50
Telephone Notification Less Than $2,500 (per item)	.60
Balance/Availability Reporting (per month)	30.00
Endpoint Analysis (per day)	20.00
Non-Processable Items (Pre-Encoded) (per item)	.15
Photocopies (per copy)	2.75
Research (per hour)	20.00
Currency/Coin Orders	2.00
Foreign Currency Deposits (per deposit)	5.00
Foreign Currency Orders (per order)	2.50
Per Cash Deposit (Credit Tickets):	
Standard Packaging	.50
Non-Standard Packaging	10.00
Special Cash Orders/Deposits	[1]
Collection Item (Non-Local Banks) (per item)	3.50
Federal Reserve Bank Settlement Entries (per entry)	.50
Additional Services (St. Louis Center)	
Package Sort I:	
(Pre-encoded items representing 100% of association's daily work)	
Local	$.0195
Regional	.023
Country	.029
Transit	.067
Package Sort II:	
(Pre-encoded items that do not represent 100% of association's daily work)	
Local	.024
Regional	.024
Country	.029
Transit	.0675
Package Sort III:	
(Deposits containing only pre-encoded transit items)	
(items not payable in the St. Louis Fed. zone)	
Pre-encoded Transit items	.0725

[1] Standard order fee plus actual charges.

Lockbox Service	Fee
1. Basic Service	$.13
2. Transmit via user supplied equipment	.01
3. Transmit via FHLBank supplied equipment	.015
4. Data prep. for transmission	.04
5. Re-enter/Reprocess item	.08
6. Keypunch or MICR encode from handwritten document	.05
7. Keypunch or MICR encode from pre-printed document	.04
8. Photocopies	.20
9. Microfilm copies	2.75
10. Storage	N/A
11. Due on sale edit	.005
12. Write loan account number on check (per item)	.02
13. Write check number, amount and/or loan number on envelope and return (per item)	.05
14. Pull selected checks to be non-processed (per item)	.001
15. Check postmark/sort by date	.001
16. Call L.B. totals posted (daily)	1.00
17. Telephone verification of account number, etc. (per item)	.50
18. Process additions to savings or checking accounts	.25
19. Process additions to principal, escrow, etc. (per item)	.05
20. Sort and batch envelopes by type of return in sequence (per item)	.001
21. Batch payments by type in processing (per item)	.001
22. Process multiple payments (per transaction)	.01
23. Process late fees/delinquents, when total amount due not shown (per transaction)	.01
24. Process "certified funds required" (per item)	.01
25. Screen envelope for attention line (per item)	.001
26. Sort and package output (daily)	1.00
27. Date stamp checks, coupons, etc. (per item)	.005
28. Microfilm checks, coupons, etc. (per item)	.01
29. Courier/postage	(1)
30. Post Office box rental	(1)
31. Local messenger service	(1)
32. Minimum monthly billing	40.00
33. Modified processing; open and screen performed by member	.08
34. Pull system rejects/hot file rejects (per item)	.02
35. Update hot file (manual) (per addition)	.50
36. Update hot file (data transmission) (per addition)	.015
37. Process payments top hot file (per item)	(2).004

[1] Actual cost.
[2] Over 5,000 items processed, the per item price is $.002.

Automated clearing house (ACH) and Electronic funds transfer (EFT) services	Fee
ACH Pass-Through (Receiving):	
1. Pick up ACH tape from local FRB and transmit/deliver to data processor	
(per tape)	$1.00
(plus per item)	.01
2. Process multiple tapes from FRB and transmit/deliver one consolidated tape to data processor	
(per tape)	1.00
(plus per item)	.01
3. Receive properly formatted ACH transmission from data processor and deliver to local FRB	
(per tape)	1.00
(plus per item)	.01
4. Produce system output tape (without processing any input) (per tape)	1.00
ACH Origination File:	
Receive properly formatted ACH data entry tape from data processor for entry into Federal Reserve ACH system	
(per tape)	5.00
(plus per item)	.05
Reformat ACH File For Transmission:	
Receive ACH tape from local FRB or data processor and reformat for data transmission (i.e., change blocking function) (per tape—additional charge)	1.50
ACH File Creation:	
Receive unformatted source data from financial institution or data processor, create ACH file and enter into Federal Reserve ACH system. (Includes data conversion; i.e., keypunching)	
(per tape)	5.00

Automated clearing house (ACH) and Electronic funds transfer (EFT) services	Fee
(plus per item)	.10
Surcharges For Next-Day Settlement:	
(Credits & debits originated) (per item)	.06
Warehouse entries for future settlement (per item)	.0025
Telephone advice (per day)	2.00
Messenger/delivery	(1)
Miscellaneous	(1)

Visa/Mastercard processing service	Fee
Monthly Settlement (Merchant Program, Cardholder Program, or both)	$55.00
Sales Drafts and Cash Advance Tickets Deposited	.01
Adjustments, Returns, Corrections, Income Distributions (All Entries)	.50
Note: Fees will be charged through the members' account analysis.	

[1] Actual/negotiated rate.

DISTRICT 9.—FEDERAL HOME LOAN BANK OF DALLAS (1986 DDA SERVICES)

Demand deposit account service	Fee
Checks/Money Orders paid:	
Checks Returned (per item)	$.15
Checks Truncated (per item)	.13
Reconciliation of Check/Money Order:	
Magnetic tape (per item)	.02
MICR (per item)	.07
Fine Sort (per item)	.006
Credit/Adjustments (per item)	(1)
Wire Transfer:	
In	2.00
Out	4.00
Stop Payments (per item)	5.00
Exception Item Return (per item)	2.50
Depository Transfer Checks (per item)	4.00
Photocopy (per item)	4.00
Account Maintenance (for accounts with more than 1,000 transactions per month) (per association)	25.00
Voids	(1)
Account Activity Reporting	(2)
Checks/Money Order Forms (above standard check)	(3)
Paid Items Mailed to Association	(3)
Overdrafts (per daily occurrence and interest at special variable advance rate plus 3%)	50.00

[1] No charge.
[2] Toll free by telephone.
[3] Actual costs.

[Deposit Processing Fees]

	Dallas Processing Center—Texas (except Southeast), Northern Louisiana, New Mexico	New Orleans Processing Center—Southern Louisiana, Southern Mississippi	Little Rock Processing Center—Arkansas, Northern Mississippi	Houston Processing Center—Southeast Texas
Deposit Items:				
Postal Money Orders, U.S. Treasury Checks (per items)	$.022	$.025	$.025	$.025
Processing Center City Items (per item)	.022	.025	.025	.025
Regional RCPC Items (per item)	.026	.025	.035	.040
Other Fed Items (per item)	.065	.060	.0625	.065
Encoding Charge (per item)	.025	.025	.020	.025
Returned Items (per item)	1.50	1.50	1.50	1.50
Non-Cash Collection Services:				
Security Coupons (per envelope)	2.75	2.50	2.50	2.75

[Deposit Processing Fees]

	Dallas Processing Center—Texas (except Southeast), Northern Louisiana, New Mexico	New Orleans Processing Center—Southern Louisiana, Southern Mississippi	Little Rock Processing Center—Arkansas, Northern Mississippi	Houston Processing Center—Southeast Texas
Food Stamps and Coupons (per deposit)	$1.50	$1.50	$1.50	$1.50
Foreign Item (per item)	6.50	6.50	2.50	6.50
All Others (Drafts, etc.) (per item)	2.75	2.50	2.50	2.75

NOTE.—Fees incurred in the process of collecting non-cash items will be passed through to the depositing institution. These charges will be added to the service fees shown above.

DISTRICT 10.—FEDERAL HOME BANK OF TOPEKA (1986 DDA SERVICES)

DDA service	Fee
Full Service Demand Plus Accounting (includes Automatic Branch control reconciliation, reporting of full account activity) (per item)—Cycle	$.15
—Truncated	.12
Basic Demand Plus Accounting (standard summary statement, must be able to process magnetic tapes) (per item)—Cycle	.11
—Truncated	.08
Large Item Return Notification ($2,500 & Over) (per item)	3.00
Treasury:	
Wire Transfers:	
Incoming (per item)	2.00
Outgoing (per item)	4.00
Pass-Through Reserves (per month)	25.00
Safekeeping Charges:	
Book-Entry Security Transactions (per transaction)	20.00
Physical Transactions (per transaction)	30.00
Account Maintenance Fee (per month)	[1]
Segregated Account Maintenance (per association—per month)	50.00
Joint Custody Service (per receipt)	20.00
Pledge or Segregated Service (per receipt pledged or released)	10.00

[1] A monthly charge of 1/12 of 1/100 of 1% of par balance of portfolio.

Processing fees	Kansas City	Oklahoma City	Topeka	Omaha	Wichita
	Enc/Unenc	Enc/Unenc	Enc/Unenc	Enc/Unenc	Enc/Unenc
Deposit Processing:					
Local	$.025/.05	$.025/.038	$.02/.033	$.025/.038	$.02/.04
RCPC & Country	.035/.06	.038/.051	.039/.052	.038/.051	.025/045
Transit	.085/.11	.067/.08	.067/.08	.067/.08	.075/.095

Service	Fee
Deposit Processing:	
Returns (per item)	$.80
Collections (per item)	2.50
Coin and Currency (per phone call)	2.50
Courier and Armored Car Costs	[1]
Mass Photocopy Requests (per item)	12.00
(Plus per item)	.15
Statement Matching:	
Truncated Statement	.05
Cycled Statement (per check up to 50 checks plus .01 per check thereafter)	.15
Insert	.01

[1] Actual cost.

NOTES.—FHLBank provides postage at cost and associations will provide latex envelopes. FHLBank provides deposit tickets at no charge and has no reserve requirements for DDA account balances.

DISTRICT 11.—FEDERAL HOME LOAN BANK OF SAN FRANCISCO (1986 DDA SERVICES)

Depository services	Fee
Deposit Processing Services:	
Depository Service Charges (minimum charge)	$300.00
Deposit Processing:	
5:30 P.M. Deposit Deadline:	
Encoded items deposited:	
Mixed (per item)	.095
Group Sort (per item)	.13
Encoding Fee (per item)	.02
8:30 P.M. Deposit Deadline:	
Encoded Items Deposited (per item)	0.05
Encoding Fee (per item)	0.015
10:30 P.M. Deposit Deadline:	
Encoded Items Deposited (per item)	0.05
Encoding Fee (per item)	0.02
Other Charges:	
Deposit Ticket (per ticket)	1.00
Commercial Deposits (per ticket)	1.00
Returned Items (per item)	1.00
End-Point Deposit Analyses Reports (per month)	25.00
Monthly Account Maintenance (per account)	10.00
Collection Services:	
Clean Collection (per item)	4.00
Documentary Collection (per item)	10.00
Savings Bonds (per transmittal)	6.50
Coupon Collection (per envelope)	6.50
Foreign Drafts (per item)	7.50
Food Coupons (per item)	.05
Coin and Currency:	
Currency Ordered/Deposited (per $1,000)	0.75
Coin Ordered/Deposited (per roll)	0.06
Coin/Currency Deposited (per deposit)	1.25
Coin/Currency Ordered (per order)	3.00
Coordination of Transportation (per branch/per month)	10.00
Basic Account Services:	
Monthly Account Maintenance:	
Regular Accounts (per account)	10.00
Zero Balance Accounts (per account)	25.00
Checks Paid (per item)	0.09
Checks Deposited (per item)	0.25
Items Returned (per item)	1.00
Stop Payments (per item)	6.00
Daily Statements	[1]
Photocopies (per copy)	2.00
ACH Debits/Credits (per settlement transaction)	0.25
Incoming Wires (per wire)	4.50
Outgoing Wires (per wire)	7.00
Book Transfers (per transaction)	4.00
Overdraft Charges (minimum charge)	[2]
Special Research (per hour)	25.00

DISTRICT 11.—FEDERAL HOME LOAN BANK OF SAN FRANCISCO (1986 DDA SERVICES)—Continued

Depository services	Fee
Account Reconcilement Services:	
Full Reconciliation:	
Monthly Account Maintenance (per account)	25.00
Checks Paid (per item)	0.09
Truncated Checks (per item)	0.06
Issue Input Method:	
MICR (per item)	0.09
Tape (per item)	0.03
Partial Reconciliation:	
Monthly Account Maintenance (per account)	10.00
Checks Paid (per item)	0.09
Truncated Checks (per item)	0.06
Miscellaneous Services:	
Fine Sort (per item)	0.01
Microfilm (per roll)	10.00
Magnetic Tape Output (paid checks) (per tape)	25.00
Data Transmission: per transmission	5.00
Plus per item	0.005
Stop Payment (per item)	6.00
Microfiche Reports (per fiche)	2.00

[1] No charge.
[2] Bank's Overnight Cash Needs Rate plus 2% (rate published by Bank's Credit Service Department). Minimum charge is $50.00.

DISTRICT 12.—FEDERAL HOME LOAN BANK OF SEATTLE (1986 DDA SERVICES)

Service	Fee
Demand Accounts:	
Account Maintenance (per month) (per account)	$4.00
Wire Transfers Out (per wire)	3.00
Wire Transfers In (per wire)	2.00
International Wire Transfers (per wire)	22.50
Pre-Authorized Deposit Transfers (drafts)	1.50
Stop Payments (per stop)	3.50
Credit or Debit Received via ACH or Mail (per entry)	.25
Unreconciled Item Posting (per item)	.0775
Reconciled Item Posting with Mag Tape Input (per item)	.085
Reconciled Item Posting with Paper Input (per item)	.105
Substandard MICR Item Manual Posting (per item)	.25
Audit Request Item Research (per item)	.25
Mag Tape Output for Outside Reconcilment (per tape)	25.00
Additional Services:	
Account transfers	[1]
Signature and/or endorsement verifications	[1]
Individual photocopy or research requests	[1]

DISTRICT 12.—FEDERAL HOME LOAN BANK OF SEATTLE (1986 DDA SERVICES)—Continued

Service	Fee
Member Securities Services:	
Account Maintenance:	
Safekeeping Account (per month)	10.00
Collateral Account (per month)	20.00
Custody—Book Entry (per security) (per month)	.75
Custody—Definitive (per security) (per month)	1.75
Receipt/Delivery/Redemption—Book Entry (per transaction)	10.50
Receipt/Delivery/Redemption—Definitive (per transaction)	20.00
Account Switch—Book Entry (per transaction)	10.50
Account Switch—Definitive (per transaction)	20.00
Audit Verification (per inquiry)	8.00
Income Collection (per transaction)	4.00
Eurodollar Transactions (per transaction)	25.00
Custody—Stripped Coupons (per $1,000/month)	.02

[1] No charge.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.
[FR Doc. 87-6727 Filed 3-27-87; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Gary-Wheaton Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Gary-Wheaton Corporation,* Wheaton, Illinois; to acquire G-W Life Insurance Company, Phoenix, Arizona, and thereby expand its credit life and credit accident and health insurance, that is directly related to extensions of credit to include involuntary unemployment credit insurance which will be directly related to extensions of credit pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6856 Filed 3-27-87; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 17, 1987.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation,* Charlotte, North Carolina; to acquire 100 percent of the voting shares of CentraBank, Inc., Baltimore, Maryland, which engages in the sale of credit life and credit accident and health insurance and has contracted with an independent insurance agency to provide insurance to the bank and to the bank's customers.

B. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Bancorp of Louisiana, Inc.,* West Monroe, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of West Monroe, West Monroe, Louisiana.

Board of Governors of the Federal Reserve System, March 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6857 Filed 3-27-87; 8:45 am]

BILLING CODE 6210-01-M

Tucson Electric Power Co. et al.; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 14, 1987.

A. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Tucson Electric Power Company,* through its wholly-owned subsidiary, Santa Cruz Resources, Inc., Tucson, Arizona; to acquire up to an additional 11.04 percent of the voting shares of Union Planters Corporation, Memphis, Tennessee, and thereby indirectly acquire Union Planters National Bank, Memphis, Tennessee.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. The John R. Tester Revocable Trust and The John R. Tester Qualified Terminable Interest Property Irrevocable Trust; to acquire 99.45 percent of the voting shares of Gibbon Bancshares, Inc., Gibbon, Minnesota, and thereby indirectly acquire Citizens State Bank of Gibbon, Incorporated, Gibbon, Minnesota.

Board of Governors of the Federal Reserve System, March 24, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-6858 Filed 3-27-87; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Research and Demonstration Grants Relating to Occupational Safety and Health; Availability of Funds for Fiscal Year 1987

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), announces the availability of funds in Fiscal Year 1987 for research and demonstration project grants relating to occupational safety and health. The objective of this program is to award funds to eligible institutions or agencies to establish, discover, elucidate, or confirm information relating to occupational safety and health, including innovative methods, techniques, and approaches for dealing with occupational safety and health problems. The Catalog of Federal Domestic Assistance number is 13.262.

Authority

This program is authorized under section 20(a)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669(a)(1)) and section 501(c) of the

Federal Mine Safety and Health Act of 1977 (30 U.S.C. 951). Program regulations applicable to these grants are in Part 87, "National Institute for Occupational Safety and Health Research and Demonstration Grants," of Title 42, Code of Federal Regulations.

Eligibility Requirements

Eligible applicants include non-profit and for-profit organizations. Thus universities, colleges, research institutions and other public and private organizations including State and local governments and small, minority and/or woman-owned businesses are eligible for these research and demonstration grants.

Availability of Funds

There is $6,501,000 available in Fiscal Year 1987 to fund individual (research, demonstration, and program) project grants, Special Emphasis Research Career Award (SERCA) grants, small grants, and Small Business Innovation Research (SBIR) grants. For individual project grants, it is expected that 27 continuation grants will be awarded totaling approximately $3.306 million and that about 17 new and competing renewal project grants will be awarded totaling approximately $2.16 million and ranging from approximately $50,000 to $200,000 with the average award being approximately $125,000. For SERCA grants, it is expected that approximately $130,000 will be awarded for 4 continuation grants and $370,000 for 11 new grants. For small grants, it is expected that approximately $92,000 will be awarded for 4 continuation grants and $333,000 for 15 new grants. For SBIR grants, the total available funds for phase I and II awards is approximately $110,000.

Grants are usually funded for 12 months in project periods of up to 5 years for individual project grants, 3 years for SERCA grants, and 2 years for small grants. Continuation awards within the project period are made on the basis of satisfactory progress and on the availability of funds.

Program Requirements

A. Research Project Grants

A research project grant application should be intended and designed to establish, discover, develop, elucidate, or confirm information relating to occupational safety and health, including innovative methods, techniques, and approaches for dealing with occupational safety and health problems. These studies may generate information that is readily available to solve problems or contribute to a better understanding of underlying causes and mechanisms.

B. Demonstration Grants

A demonstration grant application should address, either on a pilot or full-scale basis, the technical or economic feasibility or application of: (1) A new or improved occupational safety or health procedure, method, technique, or system, or (2) an innovative method, technique, or approach for preventing occupational safety or health problems.

C. Special Emphasis Research Career Award (SERCA) Grants

The SERCA is designed to enhance the research capability of individuals in the formative stages of their careers who have demonstrated outstanding potential for contributing as independent investigators to health-related research. Candidates must have had two or more years of relevant post-doctoral experience prior to the submission date. The application must document accomplishments in this period that demonstrate research potential; it must also present a plan for additional experience in a productive scientific environment at domestic institutions that will foster development of a career of independent research in the area of occupational safety and health. The SERCA is not intended for untried investigators, or for productive, independent investigators with significant numbers of publications of high quality, or for persons of senior academic rank (above associate professor or tenured). Moreover, the award is not intended to substitute one source of salary support for another for an individual who is already conducting full-time research, nor is it intended to be a mechanism for providing institutional support. The application must demonstrate that the award will make a difference in and enhance the candidate's development as an independent investigator.

Candidates must indicate a commitment of at least 60 percent time (not necessarily 60 percent salary) devoted to research under the SERCA grant, although full-time is desirable. Other work in the area of occupational safety and health will enhance the candidate's qualifications but is not a substitute for this requirement. While working closely with one or more advisers, the awardee is expected to develop capabilities in fundamental, applied, and/or clinical research in one of the areas listed under Programmatic Interests. At the end of the award period, evidence of independent investigative capability should be present such that the individual is better able to compete in traditional NIOSH research grant activities.

The total grant award may comprise direct costs of up to $30,000 per year and up to 8 percent additional indirect costs. Direct costs may include salary plus fringe benefits, technical assistance, equipment, supplies, consultant costs, domestic travel, publication, and other costs. If the awardee already holds a small grant on the same research topic, the amount of the SERCA may be reduced up to the amount of the small grant. Awards may be up to 3 years and will not be renewable.

D. Small Grants

A small grant application is intended to provide financial support to carry out exploratory or pilot studies, to develop or test new techniques or methods, or to analyze data previously collected. This small grant program is intended for predoctoral graduate students, post-doctoral researchers (within 3 years following completion of doctoral degree or completion of residency or public health training) and junior faculty members (no higher than assistant professor). If university policy requires that a more senior person be listed as principal investigator, the application should specify that the funds are for the use of a particular student or junior-level person and should include appropriate justification for this arrangement. Though biographical sketches are required only for the person actually doing the work, the application should indicate who would be supervising the research. Small grant applications should be identified as such on the application form.

The total small grant award may comprise direct costs of up to $15,000 per year and additional indirect costs, as appropriate. The grants may be awarded for a project period of up to 2 years. Salary of the principal investigator as well as that of the junior investigator, if university policy requires a senior person to be listed as the principal investigator, will not be allowed on a small grant, though salaries can be requested for necessary support staff such as laboratory technicians, interviewers, etc.

E. Program Project Grants

NIOSH will also accept applications for program project grants, but only after discussion with the individuals listed in this announcement. A program project grant is intended to support a broadly-based, multidisciplinary, often long-term research program which has a specific major objective or a basic theme. It should be directed toward a range of

problems having a central research focus in contrast to the usually narrower thrust of the traditional research project. This type of grant generally involves the organized efforts of a group of established investigators, each of whom is conducting research projects designed to elucidate the various aspects or components of the overall objective.

Programmatic Interests

NIOSH program priorities, listed below, are applicable to all of the above types of grants. The conditions or examples listed under each category are selected examples, not comprehensive definitions of the category. Investigators may also apply in other areas related to occupational safety and health. Applications responding to this announcement will be reviewed by staff for their responsiveness and relevance to occupational safety and health. Assignment to NIOSH for funding consideration will be according to established referral guidelines. Potential applicants with questions concerning the acceptability of their proposed work should contact the individuals listed in this announcement under **"FOR FURTHER INFORMATION CONTACT."**

1. Occupational lung disease: asbestosis, byssinosis, silicosis, coal workers' pneumoconiosis, lung cancer, occupational asthma.

2. Musculoskeletal injuries: disorders of the back, trunk, upper extremity, neck, lower extremity; traumatically induced Raynaud's phenomenon.

3. Occupational cancers (other than lung): leukemia; mesothelioma; cancers of the bladder, nose, and liver.

4. Severe occupational traumatic injuries: amputations, fractures, eye loss, and lacerations.

5. Cardiovascular diseases: hypertension, coronary artery disease, acute myocardial infarction.

6. Disorders of reproduction: infertility, spontaneous abortion, teratogenesis.

7. Neurotoxic disorders: peripheral neuropath, toxic encephalitis, psychoses, extreme personality changes (exporsure-related).

8. Noise-induced loss of hearing.

9. Dermatologic conditions: dermatoses, burns (scalding), chemical burns, contusions (abrasions).

10. Psychologic disorders: neurosis, personality disorders, alcoholism, drug dependency.

11. Engineering control systems: new technology prformance evaluation, preconstruction review, equipment redesign, containment of hazards at the source, fundamental dust generation mechanism, machine guarding/avoidance methods, explosion control, removal of emissions after generation, dispersion models, monitoring and warning techniques, technology transfer.

12. Respirator research: new and innovative respiratory protective devices, techniques to predict performance, effectiveness of respirator programs, physiologic and ergonomic factors, medical surveillance strategies, psychological and motivational aspects, effectiveness of sorbents and filters, including chemical and physical properties.

Criteria for Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Applications will be evaluated by a dual review process. The primary (peer) review is based on scientific merit and significance of the project, competence of the proposed staff in relation to the type of research involved, feasibility of the project, likelihood of its producing meaningful results, appropriateness of the proposed project period, adequacy of the applicant's resources available for the project, and appropriateness of the budget request. A program project application will also be evaluated for adequacy of methods for coordinating activities toward the central focus.

Demonstration grant applications will be reviewed additionally on the basis of the following criteria:

- Degree to which project objectives are clearly established, obtainable, and for which progress toward attainment can and will be measured.
- Availability, adequacy, and competence of personnel, facilities, and other resources needed to carry out the project.
- Degree to which the project can be expected to yield or demonstrate results that will be useful and desirable on a national or regional basis.
- Extent of cooperation expected from industry, unions, or other participants in the project, where applicable.

SERCA grant applications will be reviewed additionally on the basis of the following criteria:

- The review process will consider the applicant's scientific achievements, evidence of demonstrated commitment to a reserch career in occupational safety and health, and supportive nature of the research environment (including letter(s) of reference from adviser(s) which should accompany the application).

Small grant applications will be reviewed additionally on the basis of the following criteria:

- The review process will take into consideration the fact that the applicants do not have extensive experience with the grant process.

A secondary review will also be conducted. Factors considered in the secondary review will include:

- The results of the initial review.
- The significance of the proposed study to the research programs of NIOSH.
- National needs and program balance.
- Policy and budgetary considerations.

Applications and Award

Applications should be submitted on Form PHS-398 (revised May 1982) or PHS-5161-1 for State and local government applications. Forms should be available from the institutional business offices or from: Office of Grants Inquiries, Division of Research Grants, National Institutes of Health, Westwood Building—Room 449, 5333 Westbard Avenue, Bethesda, Maryland 20205.

The original and six copies of the application must be submitted to the address below on or before the specified receipt dates in accordance with the instructions in the PHS-398 packet: Division of Research Grants, National Institutes of Health, Westwood Building—Room 240, Bethesda, Maryland 20205.

In developing the application please note that the conventional presentation for grant applications should be used and the points identified under "CRITERIA FOR REVIEW" must be fulfilled.

An applicant organization has the option of having specific salary and fringe benefit amounts for individuals omitted from the copies for the application that are made available to outside reviewing groups. If the applicant's organization elects to exercise this option, use asterisks on the original and six copies of the application to indicate those individuals for whom salaries and fringe benefits are being requested; the subtotals must still be shown. In addition, submit an additional copy of page four of Form PHS-398, completed in full with the asterisks replaced by the amount of the salary and finge benefits requested for each individual listed. This budget page will be reserved for internal PHS staff use only.

The instructions in the Form PHS-398 packet should be followed concerning deadlines for either delivering or mailing the applications. The application should

be sent or delivered using the mailing label in the Form PHS-398 packet.

The proposed timetable for receiving applications and awarding grants is as follows except for the SBIR Program, which has a separate Public Health Service announcement and a separate receipt date. Applications for the SBIR Program have a receipt date of December 15.

NEW AND COMPETING RENEWAL APPLICATIONS

Application deadline	Primary review group meeting	Secondary review meeting	Earliest possible beginning date
February 1	June	September	December 1
June 1	Oct./Nov.	January	April 1
October 1	Feb./Mar.	May	July 1

[1] Competing renewal deadlines are 1 month later.

EXCEPTIONS: CAREER DEVELOPMENT AND SMALL GRANTS

Application deadline	Primary review group meeting	Secondary review meeting	Earliest possible beginning date
March 1	June	September	December 1
July 1	Oct./Nov.	January	April 1
November 1	Feb./Mar.	May	July 1

Awards will be made based on results of the initial and secondary reviews, balance among areas of programmatic interest, emphasis areas, and availability of funds.

FOR FURTHER INFORMATION CONTACT:

For Technical Informaton Contact: Roy M. Fleming, Sc.D, Associate Director for Grants, National Institute for Occupational Safety and Health, Centers for Disease Control, 1600 Clifton Road, NE., Bldg. 1, Room 3053, Atlanta, Georgia 30333, Telephone: (404) 329-3343.

For Business Information Contact: Leo A. Sanders, Grants Management Officer, Centers for Disease Control, 255 E. Paces Ferry Rd., NE., Room 321, Atlanta, Georgia 30335, Telephone: (404) 262-6575.

Larry W. Sparks,

Executive Officer, National Institute for Occupational Safety and Health.

[FR Doc. 87-6834 Filed 3-27-87; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 87N-0072]

Drug Export; Paraplatin™ (Carboplatin) Injection, 50 Milligrams, 150 Milligrams, and 450 Milligrams

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Bristol-Meyers Co. has filed an application requesting approval for the export of the human drug Paraplatin™ (Carboplatin) Injection, 50 milligrams (mg) 150 mg, and 450 mg to Belgium, Canada, Ireland, Switzerland, and the United Kingdom.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Center for Drugs and Biologics (HFN-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Bristol-Meyers Co., 345 Park Ave., New York, NY 10154, has filed an application requesting approval for the export of the drug Paraplatin™ (Carboplatin) Injection, 50 mg, 150 mg, and 450 mg, to Belgium, Canada, Ireland, Switzerland, and the United Kingdom. The application was received and filed in the Center for Drugs and Biologics on February 27, 1987, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 9, 1987, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drugs and Biologics (21 CFR 5.44).

Dated: March 19, 1987.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 87-6841 Filed 3-27-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 87N-0075]

Drug Export; Virgo™ HTLV-111 IFA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Electro-Nucleonics, Inc., has filed an application requesting approval for the export of the biological product Virgo™ HTLV-III IFA kits to Australia, Austria, Belgium, Canada, Denmark, Finland, France, Italy, Japan, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, and West Germany.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person

identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Center for Drugs and Biologics (HFN-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Electro-Nucleonics, Inc., 7101 Riverwood Dr., Columbia, MD 21046-1297, has filed an application requesting approval for the export of the biological product Virgo™ HTLV-III IFA kits to Australia, Austria, Belgium, Canada, Denmark, Finland, France, Italy, Japan, The Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, the United Kingdom, and West Germany. The application was received and filed in the Center for Drugs and Biologics on February 27, 1987, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 9, 1987, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drugs and Biologics (21 CFR 5.44).

Dated: March 19, 1987.

Daniel L. Michels,

Director, Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 87-6842 Filed 3-27-87; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85N-0473]

Interspecies Extrapolation of Dose-Response Data on Carcinogenicity; Availability of Report

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the final report of the Federation of American Societies for Experimental Biology (FASEB) on extrapolation of dose-response data on carcinogenicity is available to the public.

DATE: The final report was publicly available on January 23, 1987.

ADDRESSES: Requests for a copy of the final report should be sent to FASEB's Special Publication Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, along with $25 to cover the cost. In the near future, the report will be available from the National Technical Information Service, 5275 Port Royal Rd., Springfield, VA 22161. Copies are on display at the Life Sciences Research Office (LSRO), FASEB (address above), and at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: W. Michael Rogers, Division of Regulations Policy (HFC-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 1, 1985 (50 FR 45669), FDA announced that the LSRO of FASEB, under FDA contract 223-83-2020, was undertaking a study to examine certain scientific issues related to the interspecies extrapolation of dose-response data on carcinogenicity. The Scientific Steering Group that FASEB established under this contract recommended that FASEB conduct a symposium and workshop to study the matter. The symposium was conducted on January 6, 1986, and the workshop, which was limited to those invited by FASEB, was held on January 7, 1986.

In its final report FASEB presents a series of invited papers and a synopsis of discussions at the workshop. The report summarizes the strengths and weaknesses of several approaches for interspecies extrapolation and suggests considerations for future research.

Dated: March 23, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-6840 Filed 3-27-87; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

John E. Fogarty International Center for Advanced Study in the Health Sciences; Meeting of the Advisory Board

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Fogarty International Center (FIC) Advisory Board, May 19, 20, 1987, in the Stone House (Building 16), at the National Institutes of Health.

The meeting will be open to the public on May 19 from 8:30 a.m. to 5 p.m., and on May 20 from 8:30 a.m. to 12 noon. On May 19, the agenda will include an Overview Report by Dr. Craig K. Wallace, Director of the FIC; a report from the Advisory Committee to the NIH Director; and from the Advanced Studies, Research Awards, and Resources Working Groups of the FIC Advisory Board. There will be presentations of FIC's program accomplishments and activities on both days.

In accordance with the provisions of sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., the meeting will be closed to the public on May 19, from 5 p.m. to adjournment for the review, discussion, and evaluation of individual research fellowship applications. These applications contain information of a proprietary nature, including detailed research protocols, designs, and other technical information; and personal information about individuals associated with the applications.

Myra Halem, Committee Management Officer, Fogarty International Center, Building 38A, Room 609, National Institutes of Health, Bethesda, Maryland 20892 (301-496-1491), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Coralie Farlee, Assistant Director for Planning and Evaluation, Fogarty International Center (Executive Secretary) Building 38A, Room 609,

telephone 301-496-1491, will provide substantive program information.

Dated: March 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6874 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting; Biometry and Epidemiology Contract Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, National Institutes of Health, April 24, 1987, Bethesda Marriott Hotel, Potomac Room, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

This meeting will be open to the public on April 24 from 9 a.m. to 10:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on April 24 from 10:30 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. The proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will furnish summaries of the meeting and roster of committee members upon request.

Dr. Harvey P. Stein, Executive Secretary, 5333 Westbard Avenue, Room 804, Bethesda, Maryland 20892 (301/496-7030) will provide other information pertaining to the meeting.

Dated: March 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6876 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

Meeting; Board of Scientific Counselors, Division of Cancer Biology and Diagnosis

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Biology and Diagnosis, National Cancer Institute, June 2, 1987, Building 31A, Conference Room 4, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public on June 2 from 9 a.m. to adjournment for concept review of proposed NCI research projects. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summary minutes of the meeting and roster of committee members.

Dr. Ihor J. Masnyk, Deputy Director, Division of Cancer Biology and Diagnosis, National Cancer Institute, Building 31, Room 3A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496-3251) will provide substantive program information.

Dated: March 20, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6875 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Meeting Clinical Trials Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Committee, National Cancer Institute, National Institutes of Health, May 19, 1987, Building 31C, Conference Room 9, Bethesda, Maryland 20892.

This meeting will be open to the public on May 19 from 9 a.m. to 9:30 a.m. to discuss administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 19 from 9:30 a.m. to adjournment for the review, discussion and evaluation of individual contract proposals. The proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will furnish summaries of the meeting and roster of committee members upon request.

Dr. Gordon L. Johnson, Executive Secretary, 5333 Westbard Avenue, Room 803, Bethesda, Maryland 20892 (301/496-0118) will provide other information pertaining to the meeting.

Dated: 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6872 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute on May 9, 1987, at the New Orleans Marriott, La Galerie 2, Canal and Chartres Streets, New Orleans, Louisiana 70140.

The entire meeting, from 8:30 a.m. to adjournment on May 9, will be open to the public. During the morning session, 8:30 a.m. to 1:00 p.m., the Committee will discuss the current status of the Division of Lung Diseases' programs and plans for fiscal year 1988. In the afternoon session, from 2:00 p.m. to 5:00 p.m., the Committee will attend a symposium of presentations by ten Clinical Investigator/Physician Scientists supported by the Division. Attendance by the public to this NHLBI/NIH Centennial Event will be limited to the space available.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20892, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: March 20, 1987.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 87-6868 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meetings; Advisory Council; Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 18-19, 1987, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20892.

The meeting will be open to the public on May 18 from approximately 9 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussion will be on the Inflammatory Process. On May 19 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for the reports of the Director, Acquired Immunodeficiency Syndrome Program, Director, Microbiology and Infectious Diseases Program and the Director of the Immunology, Allergic and Immunologic Diseases Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on May 18. The meeting of the full Council will be closed from approximately 9:30 a.m. until adjournment on May 19 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301-496-7291), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: March 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6873 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of National Advisory Dental Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on May 19-20, 1987, Conference Room 4, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9 a.m. to recess on May 19 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on May 20 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Marie U. Nylen, Executive Secretary, National Advisory Dental Research Council, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20892 (telephone 301-496-7723), will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Support Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health)

Dated: March 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6871 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; National Advisory General Medical Sciences Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on May 13, 14, and 15, 1987, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on May 13, 1987, from 1:00 p.m. to 6:00 p.m. for opening remarks; report of the Director, NIGMS; a scientific presentation; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on May 14 from 8:30 a.m. to 6:00 p.m., and on May 15, 1987, from 8:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892, Telephone: 301, 496-7301 will provide a summary of the meeting, roster of council members. Dr. Elke Jordan, Executive Secretary, NAGMS Council, National Institutes of Health, Westwood Building, Room 926, Bethesda, Maryland 20892, Telephone: 301, 496-7891 will provide substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13-821, Biophysics and Physiological Sciences; 13-859, Pharmacological Sciences; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-880, Minority Access to Research Careers [MARC])

Dated: March 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6870 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Neurological and Communicative Disorders and Stroke; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of Neurological and Communicative Disorders and Stroke.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of meetings, rosters of committee members, and other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Committee: National Advisory Neurological and Communicative Disorders and Stroke Council and Its Planning Subcommittee.

Date: May 13, 1987 (Planning Subcommittee).

Place: National Institutes of Health, Building 31, Conference Room 8A49, 9000 Rockville Pike, Bethesda, Maryland 20892.

Open: 1 p.m.-3 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: 3 p.m.-5 p.m.

Closure Reason: For review of grant applications.

Dates: May 14-15, 1987 (Council).

Place: National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20892.

Open: May 14, 9 a.m.-1 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: May 14, 1 p.m.—recess; May 15, 8:30 a.m.—adjournment.

Closure Reason: For review of grant applications.

Executive Secretary: John C. Dalton, Ph.D., Director, NINCDS-EAP, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9248.

Name of Committee: Neurological Disorders Program Project Review B Committee.

Dates: June 8-10, 1987.

Place: Capitol Holiday Inn, The Federal Center Plaza, Washington, DC 20024.

Open: June 8, 8 p.m.-8:30 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: June 8, 8:30 p.m.—recess; June 9, 8 a.m.—recess; June 10, 8 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Dr. A. Beau White, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

Name of Committee: Communicative Disorders Review Committee.

Dates: June 11-12, 1987.

Place: Hyatt Rgency-Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Open: June 11, 8:30 a.m.-9 a.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: June 11, 9 a.m.—recess; June 12, 8 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Dr. Marilyn Semmes, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

Name of Committee: Neurological Disorders Program Project Review A Committee.

Dates: June 18-20, 1987.

Place: Guest Quarters, 7335 Wisconsin Avenue, Bethesda, Maryland 20814.

Open: June 18, 8 p.m.-8:30 p.m.

Agenda: To discuss program planning, program accomplishments and special reports.

Closed: June 18, 8:30 p.m.—recess; June 19, 8:30 a.m.—recess; June 20, 8 a.m.—adjournment.

Closure Reason: To review grant applications.

Executive Secretary: Dr. Herbert Yellin, Federal Building, Room 9C-14, National Institutes of Health, Bethesda, Maryland 20892, Telephone: 301/496-9223.

(Catalog of Federal Domestic Assistance Program No. 13.853, Clinical Basis Research; No. 13.854, Biological Basis Research)

Dated: March 18, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6869 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

Recombinant DNA Advisory Committee Working Group on Human Gene Therapy; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee Human Gene Therapy Subcommittee at the National Institutes of Health, Building 31C, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland 20892, on April 24, 1987, from approximately 9:00 a.m. to adjournment at approximately 5:00 p.m. to discuss scientific issues and review submission of preclinical data for information purposes. This meeting will be open to the public. Attendance by the public will be limited to space available.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee Human Gene Therapy Subcommittee, Office of Recombinant DNA Activities, 12441 Parklawn Drive, Suite 58, Rockville, Maryland 20852, telephone (301) 770-0131.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual Programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: March 20, 1987.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 87-6867 Filed 3-27-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-87-1687]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirement described below have been submitted to the Office of Management and Budget (OMB) for

review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John F. Morrall, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission; (8) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Proposal: Title I Claim for Loss.
Office: Administration.
Description of the need for the information and its proposed use: Lenders in the Title I Insurance Program execute and submit this form to receive insurance benefits for claims filed on defaulted Title I property improvements and manufactured home loans. The information provided on this form is analyzed in determining the claim amount to be disbursed to the lender.
Form number: HUD–637–A.
Respondents: Businesses or Other For-Profit.
Frequency of respondents: On Occasion.
Estimated burden hours: 15,000.
Status: Extension.
Contact: Lucy B. Matthews, HUD, (202) 755–5640; John F. Morrall, OMB, (202) 395–6880.

Proposal: Single Family Mortgage Insurance Premium Remittance Summary.
Office: Administration.
Description of the need for the information and its proposed use: This information is used to insure compliance on the part of the mortgagee and to insure HUD receives all income due. Without the form, HUD could not insure compliance nor could HUD insure that all income due the Government was being remitted.
Form number: HUD–2748.
Respondents: Small Businesses or Organizations.
Frequency of response: Monthly.
Estimated burden hours: 60,000.
Status: Extension.
Contact: Luther C. Thomas, HUD, (202) 755–1857; John F. Morrall, OMB, (202) 395–6880.

Proposal: Notice to Proceed, 24 CFR 841.
Office: Public and Indian Housing.
Description of the need for the information and its proposed use: The Notice is the official PHA order directing the contractor to commence construction on a public housing project. It establishes the date construction started, the number of days for construction, the completion date, and the name of the project contracting officer.
Form Number: None.
Respondents: State or Local Governments and Non-Profit Institutions
Frequency of response: On Occasion.
Estimated burden hours: 55.
Status: Extension.
Contact: William C. Thorson, HUD, (202) 755–6460; John F. Morrall, OMB, (202) 395–6880

Proposal: Implementation of the Equal Access to Justice Act in Administrative Proceedings (FR–2156).
Office: General Counsel.
Description of the need for the information and its proposed use: The information will be used by the Adjudicative Officer in administrative proceedings covered by the Equal Access to Justice Act to determine whether the applicant, who has prevailed over the Federal Government, is eligible to receive an award of attorney fees and other expenses under the Act, and what amount should be awarded.
Form Number: None.
Respondents: Individuals or Households, Businesses or Other For-Profit, Non-Profit Institutions, and Small Businesses or Organizations.
Frequency of response: On Occasion.
Estimated burden hours: 18.
Status: Reinstatement.
Contact: Grant E. Mitchell, HUD, (202) 755–6550; John F. Morrall, OMB, (202) 395–6880

Proposal: Substantial Equivalency Review Questionnaire.
Office: Fair Housing and Equal Opportunity.
Description of the need for the information and its proposed use: The questionnaire is needed to provide HUD with current information regarding a State or Local Government's ability to satisfactorily administer the laws or ordinances required by the Office of Fair Housing and Equal Opportunity. The information enables Regional staff to conduct on-site performance assessments.
Form Number: None.
Respondents: State or Local Governments.
Frequency of response: On Occasion.
Estimated burden hours: 150.
Status: Extension.
Contact: John H. Waller, HUD, (202) 755–0455; John F. Morrall, OMB, (202) 395–6880.

Proposal: Certificate of Completion—Consolidated, 24 CFR 841.
Office: Public and Indian Housing.
Description of the need for the information and its proposed use: The certificate is needed to transmit information from the PHAs to HUD concerning the completion of construction contracts so that HUD may authorize payment of funds due the contractor or developer. The information is supplied by the project architect, assembled and forwarded by the PHA.
Form number: None.
Respondents: State or Local Governments and Non-Profit Institutions.
Frequency of respondents: On Occasion.
Estimated burden hours: 418.
Status: Extension.
Contact: William C. Thorson, HUD, (202) 755–6460; John F. Morrall, OMB, (202) 395–6880.

Proposal: Contract for Inspection Services—Turnkey.
Office: Public and Indian Housing.
Description of the need for the information and its proposed use: This contract affects Public Housing Agencies (PHAs) and architects/engineers selected to inspect Turnkey projects. PHAs use this contract to

establish legal obligations and conditions relating to services of the architect/engineer.

Form number: HUD–5084.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of response: On Occasion.

Estimated burden hours: 251.

Status: Extension.

Contact: William C. Thorson, HUD, (202) 755–6460; John F. Morrall, OMB, (202) 395–6880.

Proposal: Program Utilization for Use in the Section 8 Existing Housing and Housing Voucher Programs.

Office: Housing.

Description of the need for the information and its proposed use: The form provides data to HUD to monitor the use of Certificates of Family Participation and Housing Vouchers, the number of families under a HAP contract and Housing Voucher contract, and the degree of success experienced by program participants in locating and leasing suitable rental housing.

Form number: HUD–52683.

Respondents: State or Local Governments.

Frequency of response: Monthly, Quarterly, and Annually.

Estimated burden hours: 8,840.

Status: Revision.

Contact: Gwendolyn S. Carter, HUD, (202) 755–6477; John F. Morrall, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act 42 U.S.C. 3535(d).

Dated: March 19, 1987.

John T. Murphy,

Director, Information Policy and Management Division.

[FR Doc. 87–6839 Filed 3–27–87; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340.

Title: Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs of the Department of the Interior, 43 CFR Part 17 Subpart B.

Abstract: Section 504 of the Rehabilitation Act requires that all recipients perform a self-evaluation of their programs in order to achieve compliance with the Act. Recipients employing fifteen (15) or more employees must maintain records of persons consulted and a description of areas examined, problems identified, and corrective actions taken. The regulation also requires recipients to provide assurances or certification as to their civil rights compliance status.

Bureau Form Number: 1084–0021.

Frequency: One-time requirement.

Description of Respondents: State and local governments receiving Federal financial assistance from the Department of the Interior.

Annual Responses: 12,414.

Annual Burden Hours: 6,207.

Bureau Clearance Officer: Melvin C. Fowler (202) 343–3455.

Dated: March 18, 1987.

Carmen R. Maymi,

Director, Office for Equal Opportunity.

[FR Doc. 87–6882 Filed 3–27–87; 8:45 am]

BILLING CODE 4310–10–M

Information Collection Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395–7340.

Title: Nondiscrimination on the Basis of Race, Color, or National Origin in Federally-Assisted Programs of the Department of the Interior, 43 CFR Part 17 Subpart A.

Abstract: The Department of the Interior's Title VI regulation provides authority for the Department to require recipients to keep and report civil rights information. The regulation also requires recipients to provide assurances or certification as to their civil rights compliance status. In addition, the regulation provides for written complaints from persons who believe unlawful discrimination has occurred in a Federal assistance program of the Department.

Bureau Form Number: 1084–0009.

Frequency: On occasion.

Description of Respondents: State and local governments receiving Federal financial assistance from the Department of the Interior, and any person who believes unlawful discrimination has occurred in a Federal assistance program of the Department.

Annual Responses: 95.

Annual Burden Hours: 380.

Bureau Clearance Officer: Melvin C. Fowler (202) 343–3455.

Dated March 18, 1987.

Carmen R. Maymi,

Director, Office for Equal Opportunity.

[FR Doc. 87–6883 Filed 3–27–87; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Indian Affairs

Navajo Tribe of Indians, Navajo Reservation, AZ; Transfer of Excess Federal Facilities

This Notice is published in the exercise of authoirty delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

On November 6, 1986, pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended by Pub. L. 93–599 dated January 2, 1975 (88 Stat. 1954), the below described property was transferred by the San Francisco Regional (9) Administrator of the General Services Administration, to the Secretary of the Interior, without reimbursement, to be held in trust for the benefit and use of the Navajo Indian Tribe of Arizona.

One hundred fifty-two (152) buildings located at the Toyei Boarding School, Ganado, Arizona, GSA Control No. 9–I–AZ–585.

These improvements are to be treated as and receive the same benefits and protection as other facilities held for the benefit and use of the Navajo Tribe. Appropriate notation will be made in the records of the Bureau of Indian Affairs.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 87–6934 Filed 3–27–87; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[AA-850-87-4830-16-2410]

Indexes of Administrative Staff Manuals Administrative Determination

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice Concerning Requirement to Publish Indexes of Administrative Staff Manuals.

SUMMARY: Under section (a)(2) of the public information section of the Administrative Procedure Act (5 U.S.C. 552), commonly known as the Freedom of Information Act, each agency is required to make available for public inspection and copying indexes to administrative staff manuals and instructions that affect any member of the public. Also, each agency is required to promptly publish, quarterly or more frequently, and distribute (by sale or otherwise), copies of the indexes or supplements thereto unless it determines by order published in the **Federal Register** that the publication would be unnecessary and impracticable in which case the agency shall nonetheless provide copies of such indexes on request at a cost not to exceed the direct cost of duplication.

Upon reexamination of the material and indexes contained in the Departmental Manual and the administrative manuals of those bureaus which have issued such documents, it was determined the majority of the directives prescribe policies and procedures that are primarily for internal use and do not affect the public. These manuals provide guidelines or procedures necessary for the accomplishment of required day-to-day operations or detailed instructions on limited technical subjects. Additionally, the contents of indexes change infrequently and requests for copies and manual indexes are extremely rare, reflecting negligible interest in such indexes.

It has been a long standing policy of the Department of the Interior that any policies and procedures which affect the public must be promulgated and published in the **Federal Register** and incorporated in the Code of Federal Regulations, when appropriate. Both of these documents are offered for sale by Superintendent of Documents, Government Printing Office, Washington, DC. 20402.

After full consideration of the provisions of 5 U.S.C. (a)(2)(C), for the foregoing reasons and consideration of economy, it is determined administratively unnecessary and impractical to publish manual indexes identified in the appendix of this Notice quarterly or more frequently and distribute (by sale or otherwise) copies of such indexes or supplements thereto. Copies of indexes will nonetheless be provided upon request at a cost not to exceed the direct cost of duplication by contacting the appropriate bureau or office as provided in 43 CFR 2.3

Robert F. Burford,

Director.

Appendix

The following administrative manuals or instructions are exempt from the quarterly index publication requirements of 5 U.S.C. 552(a)(2)(C):

Bureau of Land Management

BLM Manual
Instruction Memorandana
Information Bulletins

[FR Doc. 87-6845 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-84-M

[NV-903-06-4212-11; N-37137]

Realty Action; Lease/Purchase for Recreation and Public Purposes, Clark County, NV

The following described public land in Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et Seq.). The lands will not be offered for lease/puchase until at least 60 days after the date of publication of this notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 16 S., R. 68 E.,
Sec. 20, NW¼NW¼, SE¼NW¼.

This parcel of land contains approximately 80 acres. The Clark County Sanitation District intends to use the land for expansion of the existing Overton sewage treatment facility. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register,** the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State District. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register.**

Dated: August 25, 1986.

Ben F Collins,

District Manager, Las Vegas, NV.

[FR Doc. 87-6937 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-HC-M

[CA-050-4333-12]

Camping Stay Limit, Recreation Use Fees, and Camping Closure; Arcata Resource Area et al.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notices.

SUMMARY: Pursuant to 43 CFR 8365.1-2(a), persons may camp within designated campgrounds or on public lands not closed to camping within the Arcata Resource Area and Clear Lake Resource Area for a total period of not more than fourteen days during any calendar year. The fourteen day limit may be reached either through a number of separate visits or through a period of continuous occupation of the public lands. Under special circumstances and upon request, the Area Manager may give written permission for extensions to the fourteen day limit.

Pursuant to 36 CFR, a user fee of $5.00 (five dollars) per campsite per night will be charged at the Wailaki Recreation Site, Nodelos Recreation Site, Tolkan Recreation Site, and Horse Mountain Recreation Site, all within the King Range National Conservation Area, California.

Pursuant to 43 CFR 8364.1, the 300 acre area know as Samoa Peninsula Off-Road Vehicle Recreation Area, California (T.5N., R.1W., Section 31; T.4N., R.1W., Section 6, H.M.) located at the north jetty of Humboldt Bay, Humboldt County, California, is closed to overnight camping. Under special circumstances and upon request, the Area Manager may give written permission to camp overnight in this area.

DATE: These restrictions and fees become effective April 1, 1987.

FOR FURTHER INFORMATION CONTACT: John T. Lloyd, Arcata Resource Area Manager, 1125 16th Street, P.O. Box 1112, Arcata, California 95521 (telephone (707) 822-7648) or Gretchen Smyth, Clear Lake Resource Area Manager, 555 Leslie Street, Ukiah, California 95482 (telephone (707) 462-3873).

SUPPLEMENTARY INFORMATION: This camping stay limit is being established in order to assist the Bureau in reducing the incidence of long-term occupancy trespass being conducted under the guise of camping, both within campgrounds and on undeveloped public lands in the Arcata and Clear Lake Resource Areas.

During the thirteen years that the King Range National Conservation Area has been in existence, recreation use fees ($2.00 a night per campsite) have remained the same while the costs of maintaining the four developed recreation sites have more than doubled. By increasing user fees, the overall costs to the Federal Government will be reduced. To determine the amount of increase, comparisons of use fees were made of other Federal agencies, non-Federal public agencies and the private sector located within the service area of the King Range National Conservation Area.

The reasons for the camping closure in Samoa are:

1. Many campers have continuously extended their visits beyond the 14 day limit, causing problems with sanitation, littering, vandalism, and vegetative control;

2. These extended visits have reduced the opportunity for other recreationists to camp overnight in the area;

3. Bureau personnel have spent considerable time documenting each campers' length of stay, but the cost effectiveness of this approach is questionable;

4. The area is becoming known to many "transients" and "squatters" as a free place to live.

Maps showing the area closed to overnight camping are available at the Arcata Resource Area Office, 1125 16th Street, Arcata, California 95521. Maps are also posted within the area to show which closure applies.

Dated: March 17, 1987.

Edwin G. Katlas,

Acting District Manager.

[FR Doc. 87-6936 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-HC-M

[MT-020-07-4322-02]

Montana; Miles City District Grazing Advisory Board Meeting Notice

AGENCY: Bureau of Land Management, Miles City District Office, Interior.

ACTION: Grazing Advisory Board meeting notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that the Miles City District Grazing Advisory Board will meet May 1, 1987. The meeting will begin at 10 a.m. in the conference room of the Big Dry/Powder River Resource Area Office, Bureau of Land Management, Miles City Plaza, Miles City, Montana 59301.

The agenda for the meeting includes:

—Review of the status of the range improvement program
—Review of the status of the range monitoring effort
—Update on the BLM weed control EIS
—Update on the District riparian management program
—Public comment opportunity
—Next meeting arrangements

The meeting is open to the public. The public may make oral statements before the Advisory Board or file written statements for the Board's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Dated: March 19, 1987.

Arnold E. Dougan,

Acting District Manager.

[FR Doc. 87-6884 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-DN-M

Minerals Management Service

Development Operations Coordination Document; ODECO Oil and Gas Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil & Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0818, Block 167, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Dulac and Houma, Louisiana.

DATE: The subject DOCD was deemed submitted on March 18, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978. that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: March 20, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-6836 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders; Chevron U.S.A. Inc.

Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from May 1, 1987, through October 31, 1987. The List of Restricted Joint Bidders published in the **Federal Register** on October 17, 1986, at 51 FR 37088 covered the bidding period of November 1, 1986, through April 30, 1987.

Group I. Chevron U.S.A. Inc.; Chevron Corp.

Group II. Exxon Corp.

Group III. Texaco Inc.; Getty Oil Co.; Texaco Producing Inc.

Group IV. Shell Offshore Inc.; Shell Oil Co.; Shell Western E&P Inc.

Group V. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North American Inc.

Dated: March 24, 1987.

David W. Crow,

Acting Director, Minerals Management Service.

[FR Doc. 87-6890 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Availability of Decision and Statement of Reasons for Decision on Rock Creek Unsuitability Petition

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Availability of decision and statement of reasons for decision on Rock Creek unsuitability petition.

SUMMARY: The Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE) has reached a decision on a petition to designate lands as unsuitable for surface coal mining operations in the Rock Creek area of Tennessee.

ADDRESS: Copies of the Statement of Decision and the Statement of Reasons for the Decision may be obtained from Willis L. Gainer, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Willis L. Gainer, Office of Surface Mining Reclamation and Enforcement, 530 Gay Street, SW., Suite 500, Knoxville, Tennessee 37902; telephone 615/673-4348.

SUPPLEMENTARY INFORMATION: The Legal Environmental Assistance Foundation filed a petition with OSMRE on October 10 1984, to designate approximately 22,858 acres of land in the Rock Creek watershed area in Hamilton and Bledsoe Counties, Tennessee, as unsuitable for surface coal mining operations. The petition was filed in accordance with section 522 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and its implementing regulations at 30 CFR 842.709. The petition alleged: (1) That reclamation of the area was not technologically and economically feasible; (2) that lands within the area were fragile lands, as defined at 30 CFR 942.762.5; (3) that such operations would adversely affect renewable resource lands; and (4) that such operations would be incompatible with State and local land-use plans or programs. Pursuant to 30 CFR Part 942.764, OSMRE analyzed the allegations of the petition and, on May 8, 1986, held a public hearing. OSMRE published the final petition evaluation document and environmental impact statement (PED/EIS) in September 1986 (51 FR 35570).

A copy of the Statement of Decision signed by the Director appears as an appendix to this notice. Additional copies of the Statement of Decision and copies of the Statement of Reasons (not attached to this notice) are available at no cost from the offices listed above under **ADDRESSES.** OSMRE has sent copies of these documents to all interested parties of record.

Additional information on the petition can be found in **Federal Register** notices of December 7, 1984 (Receipt of a Complete Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations); December 10, 1985, (Notice of Intent To Prepare a Draft Combined Petition Evaluation Document and Environmental Impact Statement, including Holding a Scoping Meeting, 50 FR 50351); and March 24, 1986. (Notice of Availability of Draft PED/EIS and Public Hearing, 51 FR 10119).

Dated: March 24, 1987.

James W. Workman,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

Appendix—Petition To Designate Certain Lands in the Rock Creek Watershed, TN as Unsuitable for Surface Coal Mining Operations

Decision

Under section 522 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the Office of Surface Mining Reclamation and Enforcement (OMSRE) has been petitioned by the Legal Environmental Assistance Foundation, Knoxville, Tennessee, to designate certain private lands in the Rock Creek watershed, Hamilton and Bledsoe Counties, Tennessee, as unsuitable for all surface coal mining operations.

As required by sections 522(c) and 522(d) of SMCRA, public comment on the Rock Creek unsuitability petition was sought, a public hearing was held near the petition area in Pikeville, Tennessee, and a detailed statement, evaluating the unsuitability petition, the potential impacts from a proposed surface mining operation in the petition area, and alternative decisions available to the decisionmaker, were prepared by OSMRE.

I have considered the following information in the course of making my decision on the petition allegations: The draft and final evaluation documents, the allegations of the petitioners, and the comments in the form of oral testimony at the public hearing and written submissions received up to the close of the comment period from members of the public and industry. On the basis of all information, which is in the administrative record of this proceeding, I have reached the following decision:

1. I designate:

a. All surface minable reserves of the Sewanee coal seam within the Rock Creek watershed, Tennessee as unsuitable for coal mining operations using conventional overburden mixing techniques for reclamation;

b. The Hall, Middle, and Rock Creek gorges as unsuitable for all surface coal mining operations and surface disturbance incident to underground mining.

My Statement of Reasons, which includes a topographic description of the designation of the gorges, explains the basis for my conclusion to designate parts of the Rock Creek watershed petition area as unsuitable for surface coal mining operations.

Copies of this decision will be sent by certified mail to all parties in this proceeding. Copies of the Statement of Reasons are available at no cost from the Offices listed under **ADDRESSES** in this notice. The decision will become final on the date my Statement of Reasons is issued. Any appeal from this decision must be filed within 60 days from that date in the United States District Court for the District of Tennessee, as required by SMCRA Section 526(a)(1).

Dated: March 24, 1987.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 87-6854 Filed 3-27-87; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

March 23, 1987.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of these submissions may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, NW., Suite 140, Washington, DC 20037, or telephone (202) 857-3815. Persons wishing to comment on an information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395-4814. Copies of these comments should also be sent to the Commission. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632-7513.

OMB No.: 3060-0009

Title: Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License, or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License (Short Form)

Form No.: FCC 316

Action: Extension (renewal)

Estimated Annual Burden: 1,108 Responses; 3,324 Hours.

Needs and Uses: Required to apply for authority for voluntary/involuntary assignment of a broadcast license or construction permit, or transfer of control of corporation holding license or permit. The data is used to determine applicant's qualifications and whether public interest would be served.

OMB No.: 3060-0055

Title: Application for Cable Television Relay Service Station

Form No.: FCC 327

Action: Revision

Estimated Annual Burden: 1,400 Responses; 4,200 Hours.

Needs and Uses: Required of cable TV owners and operators to apply for CARS authorization. The data is used to determine whether applicant meets basic statutory requirements and to assure that public interest is served.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-6895 Filed 3-27-87; 8:45 pm]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30800; [1] Decision No. 12]

Union Pacific Corporation, et al.; Control of Missouri-Kansas-Texas Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Abandonment requests related to control applications accepted for consideration.

SUMMARY: The Commission is accepting for consideration abandonment applications, exemption notices and a petition for exemption related to the application for approval of Union Pacific Corporation and its wholly-owned subsidiaries Union Pacific Railroad Company and Missouri Pacific Railroad Company, to control the Missouri-Kansas-Texas Railroad Company. The Commission will decide the abandonment requests as an integral part of its decision on the control application.

DATES: Verified statements opposing abandonment requests must be filed by June 15, 1987. Rebuttal evidence must be filed by July 13, 1987. Oral hearing in this consolidated proceeding will begin on August 3, 1987. Documents should refer to Finance Docket No. 30800 as well as the applicable abandonment docket number.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar, (202) 275-7245

or

Alan Greenbaum, (202) 275-7322

ADDRESSES: Unless otherwise indicated, an original and 20 copies of all documents should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

In addition, one copy of all documents in this proceeding should be sent to:

(1) Rail Section, Interstate Commerce Commission, Washington, DC 20423.

(2) All active parties of record on the Commission's revised service list to be issued shortly.

In addition, one copy of all verified statements in opposition should be sent to applicants' representatives as applicable:

Michael E. Roper, Missouri-Kansas-Texas Railroad Company, Oklahoma, Kansas and Texas Railroad Company, 701 Commerce Street, Dallas, TX 75202

Joseph D. Anthofer, Missouri Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179

SUPPLEMENTARY INFORMATION: The following control-related abandonment applications have been filed under 49 U.S.C. 10903, *et seq.*:

1. Docket No. AB-3 (Sub-No. 62), *Missouri Pacific Railroad Company—Abandonment—In Butler County, KS*—MP 454.7 near El Dorado, KS to MP 474.4 near Whitewater, KS (19.7 miles);

2. Docket No. AB-3 (Sub-No. 63), *Missouri Pacific Railroad Company—Abandonment—In Okmulgee, Okfuskee, Hughes, Pontotoc, Coal, Johnston, Atoka and Bryan Counties, OK*—MP 174.0 near Henryetta, OK, to MP 297.6 near Durant, OK (123.6 miles);

3. Docket No. AB-102 (Sub-No. 16), *Missouri-Kansas-Texas Railroad Company—Abandonment—In Pettis and Henry Counties, MO*—MP 227.7 at Sedalia, MO to MP 262.6 at North Clinton, MO (34.9 miles);

4. Docket No. AB-102 (Sub-No. 17), *Missouri-Kansas-Texas Railroad Company—Abandonment—In Bourbon, Crawford, Neosho, and Labette Counties, KS*—MP 340.5 at Griffith, KS to MP 383.8, at Parsons, KS (43.3 miles); and

5. Docket No. AB-102 (Sub-No. 20), *Missouri-Kansas-Texas Railroad Company—Abandonment—In Williamson County, TX*—MP U-907.40, at Granger, TX, to MP U-923.70, at Georgetown, TX (16.3 miles).

The following control-related abandonment notices of exemption have been filed under 49 CFR Part 1152, Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights:*

[1] Embraces Finance Docket Nos. 30800 (Sub-Nos. 1-5) and No. MC-F-17938.

1. Docket No. AB-3 (Sub-No. 64X), *Missouri Pacific Railroad Company—Abandonment Exemption—In Sumner County, KS*—(14.4 miles);

2. Docket No. AB-102 (Sub-No. 19X), *Missouri—Kansas—Texas Railroad Company—Abandonment Exemption—In Montgomery County, KS and Nowata County, OK*—MP A-168.7 at Coffeyville, KS to MP A-170.9 at South Coffeyville, OK (2.2 miles);

3. Docket No. AB-102 (Sub-No. 21X), *Missouri—Kansas—Texas Railroad Company—Abandonment Exemption—In Grayson County, TX* MP P-622.54 at Dension, TX, to MP P673.05, at Sherman, TX (10.51 miles);

4. Docket No. AB-102 (Sub-No. 22X), *Missouri—Kansas—Texas Railroad Company—Abandonment Exemption—In Grayson County, TX*—MP D-659.5 at Denison, TX, to MP D-674.3, at Bells, TX (14.8 miles);

5. Docket No. AB-102 (Sub-No. 23X), *Missouri—Kansas—Texas Railroad Company—Abandonment Exemption—In Fannin and Hunt Counties, TX*—MP D-688.1 at Trenton, TX, to MP D-173.6 at Greenville, TX (25.5 miles);

6. Docket No. AB-244 (Sub-No. 1X), *Oklahoma, Kansas and Texas Railroad Company—Abandonment Exemption—In Dickenson County, KS*—MP S-172.8 at North Herington, KS, to MP S-180.3 at Woodbine, KS (7.5 miles).[2]

The following control-related abandonment petition for exemption has been filed under 49 U.S.C. 10505:

1. Docket No. AB-102 (Sub-No. 18X), *Missouri—Kansas—Texas Railroad Company—Abandonment Exemption—In Comal County, TX*—MP M-995.9 at Hunter, TX, to MP M-1012.6 at Ogden, TX (16.7 miles).

Additional information is contained in the Commission's decision. Copies of the decision are available from the T.S. Infosystems, Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Dated March 23, 1987.

By the Commission, Chairman Gradison, Vice Lamboley, Commissioners Sterrett, Andre, and Simmons.

Noreta R. McGee

Secretary

[FR Doc. 87-6878 Filed 3-27-87; 8:45 am]

BILLING CODE 7035-01-M

[2] Missouri—Kansas—Texas Railroad Company controls Oklahoma, Kansas and Texas Railroad Company.

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: March 25, 1987.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, DC 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC.

(1) Dairymen, Inc.
(2) 10140 Linn Station Road, Louisville, KY 40223.
(3) Georgia Division—Recreation Road—Box 910, Eatonton, GA 31024.
(4) Beverly L. Williams, 10140 Linn Station Road, Louisville, KY 40223.

(1) Flav-O-Rich, Inc.
(2) 10140 Linn Station Road, Louisville, KY 40223.
(3) 2537 Catherine Street, Bristol, VA 24201
(4) Beverly L. Williams, 10140 Linn Station Road, Louisville, KY 40223.

(1) Gold Kist Inc.
(2) 244 Perimeter Center, Pkwy. NE., Atlanta, GA 30346
(3) 244 Perimeter Center, Parkway. NE., Atlanta, GA 30346
(4) G.H. Glover, 244 Perimeter Center Parkway NE, Atlanta, GA 30346

Noreta R. McGee,

Secretary.

[FR Doc. 87-6879 Filed 3-27-87; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of rail cost adjustment factor and decision.

SUMMARY: The Commission has decided to approve the cost index and RCAF filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* Application of the index, as adjusted for fourth quarter 1986 forecast error, provides for a second quarter 1987 RCAF of 1.068. Since there is a bank of credits sufficient to offset any increase in maximum RCAF rate levels maximum adjusted base rates may not exceed the current ceiling of 1.057. No rate actions are ordered.

DATE: Effective April 1, 1987.

FOR FURTHER INFORMATION CONTACT: William T. Bono, (202) 275-7354.

SUPPLEMENTARY INFORMATION: By decision served January 2, 1985 (50 FR 87, January 2, 1985) we outlined the procedures for the calculation of the all inclusive index of railroad input costs and the methodology for the computation of the RCAF. These procedures replaced an interim methodology which was formerly used. AAR is required to calculate the forecasted index on a quarterly basis and submit it on the fifth day of the last month of each calendar quarter.

We have reviewed AAR's calculations of the index for the second quarter of 1987 and find that these calculations comply with the rules.

In our decision served December 27, 1985, we restated a lump sum payment to certain members of the United Transportation Union by amortizing it over the life of the present union contract with interest calculated using the three-month Treasury Bill rate. We instructed AAR to continue this calculation by amortizing the principal balance over the remaining quarters using a three-month Treasury Bill interest rate available seven days prior to the submission date of the quarterly index. A new contract with the American Train Dispatchers Association has become effective during the first quarter of 1987. This contract also contained a lump sum provision. We have verified the calculation of this and other lump sum payments and find that they comply with our instructions.

Our decision served September 19, 1986 requested AAR to quantify the effect of new labor contract conditions on the wage rates used in the labor portion of the index. Since that time AAR has established a special committee to quantify the effect of work rule savings on the hourly wage rate

which is the major component of the labor index. The committee has conducted a survey of AAR member railroads and quantified several additional work rule savings. The results of that survey are reflected in a second quarter 1987 reduction of 21.9 cents in the hourly wage rate.

AAR has also included a wage increase adjustment for exempt employees (those not covered by either an expired labor contract or a current one) as a part of its second quarter submission. The adjustment was calculated using a weighted average of the increases (including lump sums and less work rule savings) granted to employees who had signed new contracts. The calculation of non-union staff wage increases on the above basis complies with our rules served January 2, 1985 and it is appropriate to include those increases in the index.

We find the RCAF for the second quarter of 1987 to be 1.068. This figure was calculated by adjusting the preliminary second quarter 1987 RCAF for the fourth quarter 1986 forecast error. Since there is a bank of credits sufficient to offset any increase in maximum RCAF rate levels, adjusted base rates may not exceed the current ceiling of 1.057. No rate actions are ordered.

The indices and RCAF derived from AAR's second quarter 1987 calculations are shown in Table A of the Appendix to this decision. The adjustment for fourth quarter 1986 forecast error is also shown in Table A. Table B shows the fourth quarter 1986 index and RCAF calculated on both an actual basis and a forecasted basis for comparative purposes. Table C shows our calculation of the bank credits (including the application of an opportunity cost adjustment) used to offset increases in the RCAF.

Finally, we observe that since the published second quarter 1987 RCAF of 1.068 is higher than the current maximum RCAF rate level of 1.057, the bank of credits will be reduced slightly. If the published quarterly RCAF level remains above 1.057 in future quarters further reductions in the bank will occur. We will continue to calculate the size of the bank of credits and include that information in each quarterly decision as long as there are any remaining credits.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify a formerly complex and burdensome rate increase procedure.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Decided: March 17, 1987.

By the Commission, Chairman Gradison, Vice Chairman Lamboley Commissioners Sterrett, Andre, and Simmons. Vice Chairman Lamboley concurred in part and dissented in part with a separate expression.

Noreta R. McGee,

Secretary.

TABLE A.—EX PARTE NO. 290 (SUB-NO. 2)

[All Inclusive Index of Railroad Input Costs]

Line No. and index component	1985 weights (percent)	First quarter 1987 forecast	Second quarter 1987 forecast
1. Labor	48.6	163.3	163.7
2. Fuel	9.7	49.2	51.6
3. Materials and Supplies	7.6	102.9	98.2
4. Equipment Rents	9.0	145.1	139.6
5. Depreciation	8.7	117.0	116.5
6. Other Items [1]	16.4	121.3	122.3
7. Weighted Average	100.0	135.1	134.8
8. Linked Index [2]		129.5	129.2
9. Preliminary Rail Cost Adjustment Factor [3] (10/1/82=100) 120.9		1.071	1.069
10. Adjustment for Fourth Quarter 1986 Forecast Error [4]		(.009)	(.001)
11. First Quarter 1987 RCAF		1.062	1.068

[1] Other items are a combination of Purchased Services, Casualties and Insurance, General and Administrative, Other Taxes and Loss and Damage, all of which are measured by the Producer Price Index for Industrial Commodities, less Fuel and Related Products and Power.

[2] Linking is necessitated by a change to 1985 weights beginning with the fourth quarter 1986. The following formula was used for the third quarter 1986 index:

$$\frac{\text{2nd Quarter 1987 Index (1985 Weights)}}{\text{1st Quarter 1987 Index (1985 Weights)}} \times \text{1st quarter 1987 Index (Linked Index)} = \text{Linked Index (1980 Weights to 1985 Weights)}$$

or:

$$\frac{134.8}{135.1} \times 129.5 = 129.2$$

[3] The denominator was rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

[4] Fourth quarter 1986 forecast error adjustment is calculated as follows:

1. Fourth quarter 1986 RCAF calculated using forecasted data	1.044
2. Fourth quarter 1986 RCAF calculated using actual data	1.043
3. Difference (line 1 minus line 2.). Since the actual fourth quarter 1986 RCAF was lower than the forecast the difference will be subtracted from the second quarter 1987 preliminary RCAF	.001

TABLE B.—EX PARTE NO. 290 (SUB-NO. 2)

[Comparison of Fourth Quarter 1986 Index—Calculated on Both a Forecasted and an Actual Basis]

Line No. and index component	1985 weights (percent)	Fourth quarter 1986 forecast	Fourth quarter 1986 actual
1. Labor	48.6	156.2	156.2
2. Fuel	9.7	49.2	48.2
3. Materials and Suppliers	7.6	104.2	104.2
4. Equipment Rents	9.0	145.6	145.0
5. Depreciation	8.7	117.2	116.3
6. Other Items	16.4	120.9	121.4
7. Weighted Average	100.0	131.7	131.6
8. Linked Index		126.2	126.1
9. Rail Cost Adjustment Factor		1.044	[1] 1.043

[1] For comparative purposes only, an RCAF for the fourth quarter 1986 has been calculated using actual data. The published RCAF for the fourth quarter 1986 was computed using forecasted data.

TABLE C.—EX PARTE NO. 290 (SUB-NO. 2)

[Calculation of RCAF Credits and Application of Opportunity Cost Adjustment]

1. Bank of RCAF credits 12-31-86	.100
2. Maximum RCAF rate level, first quarter 1987	1.057
3. Published RCAF first quarter 1987	1.062
4. Reduction ( ) or addition to bank of credits for first quarter 1987 (Line 1. minus line 4.)	(.005)
5. Bank of RCAF credits 3-31-87 (Line 1. minus Line 4.)	.095
6. First quarter allowance for opportunity cost (Three-month Treasury Bill rate for sale of 2-23-87 (5.4 percent) divided by 4)	1.35%
7. Bank of RCAF credits 3-31-87 adjusted for opportunity cost (line 5 × (1.0 + Line 6))	.096

[FR Doc. 87-6430 Filed 3-27-87; 8:45 am]

BILLING CODE 7035-01-M

LIBRARY OF CONGRESS

Copyright Office

Operating Guidelines Regarding the Child Protection Act; Public Availability

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of public availability of guidelines.

The Copyright Office has prepared operating guidelines to assist the staff in applying the Child Protection Act, title 18 U.S.C. 2251-2255 in processing claims to copyright pursuant to title 17 United States Code. These Guidelines are available for public inspection and copying in the Public Office of the Copyright Office, Room LM-401 of the James Madison Memorial Building of the Library of Congress, First Street and Independence Avenue, SE., Washington, DC.

Dated: March 20, 1987.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87-6916 Filed 3-27-87; 8:45 am]

BILLING CODE 1410-07-M

Policy Decision: Enforcement of Conflicts of Interest Policies

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of policy decision.

SUMMARY: The Copyright Office has recently issued an internal policy statement to the Staff reaffirming the application of Library of Congress regulations that prohibit staff from engaging in certain kinds of outside employment. The general purposes of the Library of Congress regulations is to avoid conflicts of interest, both apparent and real, between an employee's duty to his or her government employer and the duty to an outside client or principal. The rules also prevent corruption and abuses of inside information.

Although the policy statement is an internal, personnel document not required to be made available to the public, the Copyright Office hereby notifies the public of one way in which the internal policy will be enforced. The Office will refuse to process any application, document, letter, or other request if either (1) it is signed by an employee of the Office as paid agent for another person, or (2) the Office has reason to believe that a Copyright Office employee has participated in providing a copyright-related service for monetary value. In such cases, the application, document, letter, or other request will be returned to the *copyright claimant* with an explanation of the Office's conflicts of interest policy. The claimant will be asked to resubmit the item without any paid or remunerated assistance from a Copyright Office employee as agent.

Dated: March 17, 1987.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87-6915 Filed 3-27-87; 8:45 am]

BILLING CODE 1410-07-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (87-30)]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee (SSTAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee.

DATE AND TIME: April 15, 1987, 8:30 a.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Federal Building 10B, Room 425, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Joanne O. Teague, Office of Aeronautics and Space Technology, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-1887.

SUPPLEMENTARY INFORMATION: The NAC Space Systems and Technology Advisory Committee was established to provide overall guidance and direction to the space research and technology activities in the Office of Aeronautics and Space Technology (OAST). The Committee, chaired by Mr. Norman Augustine, is comprised of 20 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Committee members and other participants).

Type of meeting: Open.

Agenda

April 15, 1987

8:30 a.m.—Opening Remarks.
9 a.m.—Discussion of Agency Strategic Planning.
10 a.m.—Briefing on Long-Range Space Technology Plans.
1 p.m.—University Space Engineering Program Plans.
1:30 p.m.—Ad Hoc Team Reports.
3 p.m.—Discussion of Action Summary from SSTAC/Aerospace Research and Technology Subcommittee meeting.
4 p.m.—Summary Session.
4:30 p.m.—Adjourn.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

March 19, 1987.

[FR Doc. 87-6880 Filed 3-27-87; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Archaeometry (Anthropology Program); Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeometry (Anthropology Program).

Date & Time: April 13, 1987; 9:00 a.m.-5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 628, Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. John Yellen, Program Director, Anthropology Program, Room 320, National Science Foundation, Washington, DC 20550; (202) 357-7804.

Purpose of meeting: To provide advice and recommendations concerning support for archaeometry.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information, concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

March 23, 1987.

[FR Doc. 87-6843 Filed 3-27-87; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Earth Sciences Proposal Review Panel.

Date: April 8, 9 and 10, 1987.

Time: 8:00 a.m. to 5:00 p.m. each day.

Place: The National Science Foundation, Room 543, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550 Telephone: (202) 357-7958.

Summary minutes: May be obtained from the Contact Person at the above address.

Purpose of meeting: To provide advice and recommendations concerning support for research in Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and

(6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
March 23, 1987.

[FR Doc. 87-6844 Filed 3-27-87; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-317 and 50-318]

Baltimore Gas and Electric Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Prior Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses Nos. DPR-53 and DPR-69 issued to the Baltimore Gas and Electric Company (the licensee), for operation of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, located in Calvert County, Maryland.

The proposed amendments would decrease the frequency of performance of the steam generator (SG) tube inservice inspections (ISI) by modifying the Units 1 and 2 Technical Specifications (TS) Surveillance Requirements 4.4.5.3.a and b.

Currently TS 4.4.5.3.a requires that subsequent ISI's be performed at intervals of not less than 12 nor more than 24 calendar months after the previous inspection. This application proposes to change the SG tube ISI frequency to at least once per refueling interval where a refueling would be defined as 24 months. In addition, the interval between performances of consecutive SG tube ISI's could be extended by 6 months to a total interval of 30 months as long as the combined time interval for three consecutive ISI intervals does not exceed 78 months. Currently, this combined interval cannot exceed 72 months.

This application also proposes to modify the SG tube ISI frequency requirement of TS 4.4.5.3.b by making this requirement only applicable to any Category C-3 results for SG tube ISI's conducted at 40-month intervals. The 40-month interval is permitted by TS 4.4.5.3.a when two consecutive ISI's demonstrate that no further or new tube degradation has occurred. This application additionally proposes the extension of the TS 4.4.5.3.b required punitive inspection frequency to at least once per refueling interval. The refueling interval (24 months) may be extended by 6 months over one ISI interval (total of 30 months) as well as 6 months over three consecutive ISI intervals (combined total of 78 months).

Currently, the inspection frequency requirement of TS 4.4.5.3.b is applicable to all ISI's, regardless of the interval at which they were performed, if that ISI required a third sample inspection whose results were Category C-3. The current punitive inspection frequency required is at least once per 20 months with no extensions permitted. This requirement is more restrictive than the normal SG tube ISI frequency of up to 24 months. The proposed punitive ISI frequency is identical to the proposed normal ISI frequency. For each, the ISI interval may be extended up to 30 months.

The proposed TS revision is in partial response to the licensee's application for amendments dated October 17, 1986. The remaining issues associated with the October 17, 1986 application will be addressed in separate actions.

Prior to issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By April 29, 1987, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Ashok C. Thadani: (petitoner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555, and to D.A. Brune, Jr., Genral Counsel, Baltimore Gas & Electric Company, P.O. Box 1475, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated October 17, 1986 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland, this 23rd day of March 1987.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate #8, Division of PWR Licensing-B.

[FR Doc. 87-6946 Filed 3-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-341; FERMI-2]

Detroit Edison Co., Wolvering Power Supply Cooperative Inc.; Withdrawal of Application for Amendment to Facility Operating License NPF-43

The United States Nuclear Regulatory Commission (Commission or the NRC) has granted the request of the Detroit Edison Compnay (DECo or the licensee) for wihdrawal of part of an application for proposed amendment to Facility Operating License No. NPF-43 for Fermi-2 located in Monroe County, Michigan. The Commission issued a Notice of Consideration of Issuance of Amendment which was published in the **Federal Register** on October 22, 1986 (51 FR 37508).

By letter dated January 29, 1987, the licensee withdrew a portion of the application for the amendment requested on June 19, 1986, and supplemented on July 31, 1986. The licensee submitted a proposed license amendment which would have extended the required date for submittal of the Detailed Control Room Design Review (DCRDR) summary report.

The DCRDR summary report was submitted with the letter dated November 30, 1986, as required in Operating License No. NPF-43, Attachment 2, Item 1(a). Hence, the proposed portion of the license amendment is not needed.

For further details see the application for amendment dated June 19, 1986, and July 31, 1986, the licensee's letter dated January 29, 1987, withdrawing a portion of the application. All of these documents are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, DC 20555 and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Dated at Bethesda, Maryland, this 23rd day of March 1987.

Elinor G. Adensam,

Director, BWR Project Directorate No, 3 Division of BWR Licensing.

[FR Doc. 87-6947 Filed 3-27-87; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-259/260/296]

Tennessee Valley Authority; Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Tennessee Valley Authority (the licensee) to withdraw its January 20, 1986 application for proposed amendments to Facility Operating Licenses Nos. DPR-33, DPR-52 and DPR-68 for the Browns Ferry Nuclear Plant, Units 1, 2, and 3 located in Limestone County, Alabama. The proposed amendments would have revised the Technical Specifications relating to the requirement for taking milk samples. The Commission issued a Notice of Consideration of Issuance of Amendments published in the **Federal Register** on March 26, 1986 (51 FR 10470). By letter dated January 20, 1987 the licensee withdrew its application for the proposed amendments.

For further details with respect to this action, see (1) the application for amendments dated January 30, 1986 and (2) the licensee's letter dated January 20, 1987, withdrwing the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Local Public Document Room in the Athens Public Library, South and Forrest, Athens, Alabama 35611.

Dated this 9th day of February, 1987.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate #2, Division of BWR Licensing.

[FR Doc. 87-6948 Filed 3-27-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 24239; File No. SR-NYSE-87-07]

Self-Regulatory Organizations; Filing and Summary Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc.; 2½ point strike price intervals in NYSE Composite Index Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 18, 1987, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Last August, the Exchange amended Rule 703.30 to provide for 2½ point strike price intervals for NYSE Composite Index Options. (*See* SR-NYSE-86-25, as amended by the August 27, 1986 letter to Jonathan G. Katz, Secretary, SEC, from James E. Buck, Secretary, NYSE (the "Temporary Rule Change") and Securities Exchange Act Release No. 23618 (September 12, 1986).) The Temporary Rule Change contains a "sunset" provision effective upon the March expiration. The proposed rule change extends the "sunset" to May 17 (i.e., the May expiration).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Please see Exhibit 1 to SR-NYSE-86-25.

B. Self-Regulatory Organization's Statement on Burden on Competition

Please see Exhibit 1 to SR-NYSE-86-25.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The NYSE did not submit this filing to its members for comments, however, see Exhibit 1 to SR-NYSE-86-25 concerning any comments received on the original establishment of the 2½ point strike price intervals.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the Commission summarily approve the proposed rule change pursuant to section 19(b)(3)(B) of the Act. The Exchange currently has trading NYSE Composite Index Options contracts with "2½ point" strike prices. Summary approval will permit these contracts to continue trading, and permit the Exchange to open new contracts with "2½ point" strike prices, pending the Exchange's filing of a proposed rule change making the amendments to Rule 703.30 permanent. The Exchange anticipates making that filing shortly.

The Commission believes that summary effectiveness is necessary to enable the Exchange to continue the pilot program without interruption while it prepares to file for permanent approval of 2½ point strike price intervals in its Composite Index Options. The proposed rule change will provide continuity to investors in this class of options and will thereby assist in the maintenance of fair and orderly markets. Accordingly, the foregoing rule change has been put into effect summarily, pursuant to section 19(b)(3) of the Act. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Section 19(b)(3)(B) of the Act requires that any proposed rule change put into effect summarily shall be filed promptly thereafter in accordance with the provisions of section 19(b)(1) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 20, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

March 20, 1987.

[FR Doc. 87-6881 Filed 3-27-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted on or before April 29, 1987. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653-6623

OMB Reviewer: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, (202) 395-7340.

Title: Statement of Personal History.

Frequency: Each time assistance or temporary office employment is applied for.

Description of Respondents: This form is used to collect information needed to make character determinations with respect to applicants.

Annual Responses: 87,100.

Annual Burden Hours: 7,258.

Type of Request: Extension.

Elizabeth M. Zaic,

Deputy Director, Office of Administrative Services Small Business Administration.

March 25, 1987.

[FR Doc. 87-6952 Filed 3-27-87; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VI Advisory Council, located in the geographical area of New Orleans, will hold a public meeting at 2:00 p.m. Thursday, April 23, 1987, at the Sheraton Hotel, 4728 Constitution Avenue—near I-10 at College Drive, Room 254, Baton Rouge, Louisiana 70808, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert J. Crochet, District Director, U.S. Small Business Administration, 1661 Canal Street, Suite 2000, New Orleans, Louisiana 70112-2990, (504) 589-2744.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 24, 1987.

[FR Doc. 87-6847 Filed 3-27-87; 8:45 am]

BILLING CODE 8025-01-M

Region VI—Advisory Council; Public Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Dallas, Texas, will hold a public

meeting at 9:00 a.m., on Thursday, May 7, 1987 at Dallas County Community College District, 701 Elm Street, Dallas, Texas, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call James S. Reed, District Director, U.S. Small Business Administration, 1100 Commerce, Room 3C36, Dallas, Texas, 75242, telephone (214) 767–0600.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 24, 1987.

[FR Doc. 87–6848 Filed 3–27–87; 8:45 am]

BILLING CODE 8025–01–M

Mid-Atlantic Regional Advisory Council; Public Meeting

The Small Business Administration Regional Advisory Council of the Mid-Atlantic Region of SBA will hold a joint public meeting beginning Thursday, April 30, 1987 at 12:00 Noon at the Cliffside Inn, located on Route 340 one mile west of Harpers Ferry, West Virginia to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration and others attending.

For further information, write or call Robert H. Miller, Regional Administrator, U.S. Small Business Administration, One Bala Cynwyd Plaza, West Lobby, Bala Cynwyd, PA 19004 or phone (215) 596–5901.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 24, 1987.

[FR Doc. 87–6846 Filed 3–27–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission; Partially Closed Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92–463, that a meeting of the Advisory Committee to the United States National Section of the Inter-American Tropical Tuna Commission will be held on April 22, 1987 from 9:00 a.m. to 4:30 p.m. in the auditorium of the Southwest Fisheries Center of the National Marine Fisheries Service at 8604 La Jolla Shores Drive, La Jolla, California. The Advisory Committee meets annually to discuss the conservation and management of tuna fisheries in the eastern Pacific Ocean and U.S. preparations for meetings of the Inter-American Tropical Tuna Commission. The 44th meeting of the IATTC is scheduled for May 5–7, 1987 in Panama City, Panama.

The morning session will be open to the public and the public may participate in the discussions subject to the instructions of the Committee Chair. Subjects to be discussed include an evaluation of the 1986 fishery experience, assessment of tuna stocks, a preliminary outlook for the 1987 fishery, and the IATTC tuna-porpoise program.

The Advisory Committee will meet in closed session on the afternoon of April 22. At this session, documents classified in accordance with Executive Order 12356 of April 12, 1982 will be circulated and discussed and matters will be considered which the public interest requires be withheld from disclosure. Accordingly, a determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, s.10(d) and 5 U.S.C. 552b (c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Brian Hallman, OES/OFA, Room 5806, Department of State. He may be reached by telephone at (202) 647–2335.

Dated: March 18, 1987.

Edward E. Wolfe,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 87–6837 Filed 3–27–87; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending March 20, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 44739 R–1 & R–2

Parties: Members of International Air Transport Association.
Date Filed: March 17, 1987.
Subject: Increase ex-Australia Rates.
Proposed Effective Date: May 1, 1987.

Docket No. 44743 R–1 & R–2

Parties: Members of International Air Transport Association.
Date Filed: March 18, 1987.
Subject: Ex-Scandinavian Rate Increases.
Proposed Effective Date: April 1, 1987.

Docket No. 44744 R–1—2

Parties: Members of International Air Transport Association.
Date Filed: March 19, 1987.
Subject: 1987 Canada-Europe Rates.
Proposed Effective Date: April 1, 1987.

Docket No. 44745 R–1—R–10

Parties: Members of International Air Transport Association.
Date Filed: March 19, 1987.
Subject: Mid Atlantic-Europe Fares.
Proposed Effective Date: April 1, 1987.

Docket No. 44746 R–1—R–7

Parties: Members of International Air Transport Association.
Date Filed: March 19, 1987.
Subject: 1987 PAC Resolutions.
Proposed Effective Date: April 1, 1987.

Docket No. 44647 R–1—R–47

Parties: Members of International Air Transport Association.
Date Filed: March 20, 1987.
Subject: TC1 Longhaul.
Proposed Effective Date: May 1, 1987.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87–6914 Filed 3–27–87; 8:45 am]

BILLING CODE 4910–62–M

Federal Aviation Administration

Certification Issues Conference; Civil Powered-Lift Transport Category Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of conference; change of location.

SUMMARY: A notice announcing a conference to discuss civil certification issues for powered-lift aircraft that may arise from the entry of such an aircraft into the civil aviation system was published in the **Federal Register** on February 2, 1987 (52 FR 3192). Since that notice was issued, the FAA has changed the location of the conference. The FAA is also asking for preregistration of conference attendees. Preregistration information and draft airworthiness criteria have been mailed to all known interested persons. Persons who have not received a preregistration package by May 1, 1987, should contact the person listed under "For Further Information Contact."

DATES: May 1, 1987: Last day for receipt of agenda items submitted to the FAA Rotorcraft Standards Staff to facilitate establishing the conference agenda/special requirements.

June 23, 1987: Conference will begin at 9 a.m. (registration will begin at 8 a.m.) and continue through succeeding days until coverage of all issues is complete.

ADDRESSES: The new location for the conference is the Holiday Inn North/Conference Center, 2540 Meacham Boulevard, Fort Worth, Texas, telephone (817) 625–9911.

Agenda items may be mailed to FAA, Regulations Program Management, ASW–111, P.O. Box 1689, Fort Worth, Texas, 76101, or delivered to the FAA Southwest Regional Office, Rotorcraft Standards Staff, Building 3B, Room 166, 4400 Blue Mound Road, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: For technical issues/agenda items contact Mr. Jim S. Honaker, Regulations Program Management, ASW–111, P.O. Box 1689, Fort Worth, Texas 76101, telephone (817) 624–5109 or FTS 734–5109.

For preregistration information/special requirements contact Ms. Debra H. Myers, Regulations Program Management, ASW–111, same address as above, telephone *817) 624–5118 or FTS 734–5118.

SUPPLEMENTARY INFORMATION:

Background

Powered-lift aircraft fly at the higher speeds of conventional airplanes and may also have a zero airspeed (hover) capability. This capability may be provided by aircraft configuration changes (tilt-wing, tilt-rotor, tilt-propeller), by thrust vectoring, by direct-lift engines, or by other powered-lift concepts. Powered-lift aircraft include some characteristics of rotorcraft and some characteristics of airplanes and, as a result, constitute a unique category.

Several designs of power-lift aircraft are currently being considered by various industry and government groups, and the FAA recently received an application for civil certification of one of the designs. In that regard, the FAA is seeking the identification and discussion of certification issues that could arise as a result of the development of such a design.

Interested persons are invited to identify issues for civil certification of a powered-lift aircraft. Issues submitted will be used to prepare a formal conference agenda.

Conference Procedures

Persons who plan to attend the conference should be aware of the following procedures to facilitate the workings of the conference.

1. Registration will begin at 8 a.m. on June 23, 1987.

2. Conference sessions will be open to all persons who register.

3. The FAA will consider all material presented at the conference by participants. Handout materials may be accepted at the discretion of the chairperson; however, enough copies should be provided for distribution to all conference participants.

4. Statements made by the FAA will be made to facilitate discussion and should not be taken as expressing a final FAA position.

5. The Holiday Inn North/Conference Center has blocked rooms for attendees that identify themselves as FAA Powered-Lift Conference participants at a rate of $39 per night. Room reservation information is included in the preregistration information package.

Issued in Fort Worth, Texas, on March 16, 1987.

C.R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 87–6925 Filed 3–27–87; 8:45 am]

BILLING CODE 4910–13–M

Radio Techical Commission for Aeronautics (RTCA); Special Committee 163—Anti-Blocking Device and Stuck Microphone Circuitry for Two-Way Voice Communication Radios, Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of RTCA Special Committee 163 on Anti-Blocking Device and Stuck Microphone Circuitry for Two-Way Voice Communication Radios to be held on April 23–24, 1987, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Opening Remarks; (2) Review of Committee Terms of Reference; (3) Review of Prior RTCA Activities; (4) Discuss Facts Bearing on the Problem; (5) Establish Plan to Develop Criteria and Guidance Information for Methods to Eliminate Blocked Frequences; (6) Develop Committee Work Program and Schedule; (7) Assignment of Tasks; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC on March 23, 1987.

Wendie F. Chapman,

Designated Officer.

[FR Doc. 87–6926 Filed 3–27–87; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Bank Secrecy Act; Electronic Filing of Currency Transaction Reports

AGENCY: Department of the Treasury, Office of the Secretary.

ACTION: Notice.

SUMMARY: The Department of the Treasury is planning to conduct a pilot program in which participating financial institutions may report on magnetic media currency transactions as required by the Bank Secrecy Act. Such magnetic media filing must include all the information currently required to be provided on the paper forms.

DATE: Requests for copies of the specifications for participation in the program, which include the required application forms, must be submitted by June 15, 1987.

ADDRESS: Requests for specifications should be addressed to Chief, Currency and Banking Division, Internal Revenue Data Center, 1300 John Lodge Drive, Detroit, MI 48226, Attn: Phyllis A. Goldsworthy, CTR Magnetic Filing Coordinator.

FOR FURTHER INFORMATION CONTACT: Phyllis A. Goldsworthy, CTR Magnetic Filing Coordinator, (313) 226–3293.

SUPPLEMENTARY INFORMATION: Under a provision of the Bank Secrecy Act, 31 U.S.C. 5313, and the regulations thereunder, the Department of the Treasury requires designated financial institutions to file reports of currency transactions over $10,000 on a form prescribed by the Secretary of the Treasury. 31 CFR 103.22 and 103.26(a). Until this time, the only form of reporting prescribed by the Secretary has been paper filing on the Currency Transaction Report (IRS Form 4789). However, Treasury will conduct a pilot program in which participating financial institutions may report currency transactions on magnetic media (tape filing). Interested financial institutions should immediately request a copy of specifications for participation from the above address. A financial institution may apply to participate in the program for only some of its branches or offices. The non-participating branches or offices would continue to file paper Currency Transaction Reports as usual.

Based on the results of this pilot program, Treasury will consider authorizing non-paper filing of Currency Transaction Reports on a permanent basis for those financial institutions that wish to file in this manner. We hope that non-paper filing will provide cost and other advantages to the government and participating financial institutions.

Treasury will not furnish the software required for magnetic media filing. Treasury will accept magnetic media Currency Transaction Reports only from financial institutions that have applied to participate in the pilot test and whose participation has been approved by the Internal Revenue Service Data Center, Detroit, Michigan. Approval is contingent upon successful completion of an acceptance test to be administered by the Data Center. Information regarding the acceptance test, including the date by which it must be completed, is contained in the specifications.

Magnetic media reports filed during the pilot program must contain all the information currently required on paper Currency Transaction Report forms and must be in the format prescribed in the specifications. All magnetic media submissions filed during the filing test must be accompanied by a transmittal document containing the signature of an official of the financial institution attesting to the completeness and accuracy of the information transmitted.

The magnetic media filing test will merely affect the form in which financial institutions file Currency Transaction Reports; requirements of 31 CFR Part 103 will continue to be applicable in their entirety to participating financial institutions. The pilot test or an individual financial institution's participation in the test may be terminated at any time at the option of Treasury. At the conclusion of the pilot program or upon termination of a financial institution from the program, participants must immediately recommence filing paper Currency Transaction Reports.

Dated: March 18, 1987.

Francis A. Keating, II,

Assistant Secretary (Enforcement).

[FR Doc. 87-6864 Filed 3-27-87; 8:45 am]

BILLING CODE 4810-25-M

Internal Revenue Service

[Delegation Order No. 223]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This delegation order redelegates to the Assistant Commissioner (International) authority to certify that corporations are excluded from the definition of "foreign personal holding company."

The text of the delegation order appears below.

EFFECTIVE DATE: March 26, 1987.

FOR FURTHER INFORMATION CONTACT: Gerald Morris, Chief, Quality Review Staff, Room 4415, 950 L'Enfant Plaza, South SW., Washington, DC 20024, (202) 447-1099.

Gerald Morris,

Chief, Quality Review Staff.

Order No. 223.

Effective Date: March 26, 1987.

Authority to certify that corporations are not foreign personal holding companies under section 552(b) of the Internal Revenue Code.

Pursuant to the authority vested in the Commissioner of the Internal Revenue by 26 CFR 1.552-4(a), there is hereby delegated to the Assistant Commissioner (International) the authority to certify that certain corporations are excluded from the definition of a "foreign personal holding company."

This authority may be redelegated no lower than Chief, Quality Review Staff, Examination Branch, Office of Compliance.

To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified.

Dated: February 5, 1987.

Approved:

James I. Owens,

Deputy Commissioner.

[FR Doc. 87-6928 Filed 3-27-87; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Advisory Committee on Readjustment Problems of Vietnam Veterans; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Readjustment Problems of Vietnam Veterans will be held April 9 and 10, 1987, in the Omar Bradley Conference Room of Veterans Administration Central Office, 810 Vermont Avene, NW., Washington, DC, 20420. Both meetings will begin at 8:00 a.m. and conclude at 4:30 p.m.

These meetings will be open to the public up to the seating capacity of the room. Anyone having questions concerning the meetings may contact Arthur S. Blank, Jr., M.D., Director, Readjustment Counseling Service, Veterans Administration Central Office (phone number (202) 233-3317/3303).

Dated: March 18, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87-6891 Filed 3-27-87; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 60
Monday, March 30, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 52, No. 54, FR 9005, Friday, March 20, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time) Tuesday, March 31, 1987.

CHANGES IN THE MEETING:

The meeting has been canceled.

Item #2—Report on Commission Operations (Optional) has been rescheduled for the April 6, 1987, open portion of the meeting.

Item #3—Formal Opinion Letter Request l; om Congressman Claude Pepper Regarding Coverage under ADEA for Appointed State Court Judges will be considered under the Commission's Regular Notation Voting Procedure and announced in accordance with the Government in the Sunshine Act at the April 6, 1987, Commission Meeting.

Closed portion of the agenda has been rescheduled April 6, 1987.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748

This Notice Issued March 26, 1987.

Dated: March 26, 1987.

Johnnie L. Johnson, Jr.,

Attorney Advisor, Executive Secretariat.

[FR Doc. 87-7013 Filed 3-26-87; 2:28 pm]

BILLING CODE 6750-06-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 52, Friday, March 27, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, April 6, 1987.

CHANGE IN THE MEETING:

Open

1. Announcement of Notation Votes
2. A Report on Commission Operation (Optional)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634-6748.

This Notice Issued March 26, 1987.

Dated: March 26, 1987.

Johnnie L. Johnson, Jr.,

Attorney Advisor, Executive Secretariat.

[FR Doc. 87-7014 Filed 3-26-87; 2:28 pm]

BILLING CODE 6750-06-M

NATIONAL SCIENCE BOARD

DATE AND TIME: March 20, 1987 8:30 a.m. Closed Session.

PLACE: National Science Foundation, Washington, DC.

STATUS: Change to Previously Published Announcement.

The following additional item was added to the Friday, March 20, Closed Session Agenda, which was published in the **Federal Register**, 52 FR 7259 on Monday, March 9, 1987:

NSF Personnel Practices

All Board members present voted in favor of adding this item to the Closed Session Agenda. No earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION: Thomas Ubois, Executive Officer (202) 357-9582.

Thomas Ubois,

Executive Officer.

[FR Doc. 87-6975 Filed 3-26-87; 10:57 am]

BILLING CODE 7555-01-M

POSTAL RATE COMMISSION

TIME AND DATE: 10:00 a.m. on Thursday, April 2, 1987.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closes.

MATTERS TO BE CONSIDERED: To discuss an Opinion and Recommended Decision in Docket No. MC87-1.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268-0001, Telephone (202) 789-6840.

Charles L. Clapp

Secretary.

[FR Doc. 87-6956 Filed 3-26-87; 9:09 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 8549 March 18, 1987].

STATUS: Closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Friday, March 13, 1987.

CHANGE IN THE MEETING: Additional meetings.

The following items were considered at a closed meeting on Monday, March 16, 1987, at 2:00 p.m.:

Settlement of administrative proceeding of an enforcement nature.
Formal order of investigation.
Settlement of injunctive action.
Report of investigation.

The following item was considered at a closed meeting on Thursday, March 19, 1987, at 2:00 p.m.:

Formal order of investigation.

The following item was considered at a closed meeting on Friday, March 20, 1987, at 10:30 p.m.:

Settlement of injunctive action.

Commissioner Fleischman, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Morris at (202) 272-2468.

Jonathan G. Katz,

Secretary.

March 23, 1987.

[FR Doc. 87-7048 Filed 3-26-87; 3:52 pm]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1383)

TIME AND DATE: 10 a.m. (EST), Wednesday, April 1, 1987.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

AGENDA

Approval of minutes of meeting held on March 11, 1987.

Discussion Item

1. Control of Livestock Waste to Improve Water Quality.

Action Items

Old Business

1. Proposal to Revise the Economy Surplus Power Program which is Currently Being Offered to TVA's Directly Served Customers on an Experimental Basis.

2. Supplement No. 3 to Contract No. TV-68516A with U.S. Department of Energy Covering Arrangements for Cooperation in a Project to Determine Influence of Ozone, Acidic Precipitation, and Soil Magnesium Level on the Growth of Loblolly Pine Under Field Conditions.

New Business

A—Budget and Financing

A1. Adoption of Supplemental Resolution Authorizing 1987 Series B Power Bonds.

A2. Resolution Authorizing the Chairman and Other Executive Officers to Take Further Action Relating to Issuance and Sale of 1987 Series B Power Bonds.

B—Purchase Awards

B1. Amendment to Contract No. TV-64742A with Norfolk Southern Corporation for Transportation of Coal to John Sevier Steam Plant.

C—Power Items

C1. Renewal Power Contract with City of Paris, Tennessee.

C2. Lease and Amendatory Agreement with City of Dickson, Tennessee, Covering Arrangements for Lease of TVA's Pomona 161-kV Substation.

D—Personnel Items

D1. Supplement No. 4 to Personal Services Contract No. TV-64851A with Nationwide Advertising Services, Inc., Cleveland, Ohio, for Assistance in Advertising for and Recruiting Personnel, Requested by the Office of Employee Relations.

D2. Personal Services Contract with Gilbert/Commonwealth, Inc., Reading, Pennsylvania, for Engineering, Design, Drafting and Related Engineering, Construction, and Operations Support Services, Requested by the Office of Power.

D3. Supplement No. 8 to Personal Services Contract No. TV-53532A with Hartford Steam Boiler Inspection and Insurance Company, Atlanta, Georgia, for Nuclear Inspection Services at TVA Nuclear Plants, Requested by Office of Nuclear Power.

D4. Supplement No. 3 to Personal Services Contract No. TV-67404A with General Physics Corporation, Columbia, Maryland, for Engineering and Related Support to the Technical Services Group at Browns Ferry Nuclear Plant, Requested by Office of Nuclear Power.

D5. Employee Loan Agreement No. TV-71871A with Seehuus & Hart Associates, Inc.

E—Real Property Transactions

E1. Sale at Public Auction of Lease of Coal Underlying Approximately 784 Acres of the Red Bird Coal Reserve Located in Bell and Harlan Counties, Kentucky—Tract No. XEKCR-16L.

E2. Sale of Permanent Sewerline Easement to Harpeth Valley Utility District, Affecting a 1.5-acre Portion of TVA's Davidson 500-kV Substation Property, Located in Davidson County, Tennessee—Tract No: DVDSS-1.

E3. Grant of Permanent Easement to Clinton Utilities Board for a Sewerline, Affecting Approximately 0.8 Acre of Melton Hill Reservoir Land Located in Anderson County, Tennessee—XTMHR-16PS.

E4. Reconveyance of Land to TVA from Commonwealth of Kentucky and Grant of Permanent Easement to the Commonwealth of Kentucky for a Research Station, Affecting 3.7 Acres of Kentucky Reservoir Land Located in Calloway County, Kentucky—Tract No. XTGIR-132RS.

E5. Filing of Condemnation Cases.

F—Unclassified

F1. Contract No. TV-71222A with the State of Tennessee, Department of Conservation, Division of Land Reclamation, Covering Arrangements for Cooperation in a Land Reclamation Project Located near Double Top Community in Fentress County, Tennessee.

F2. Contract No. TV-71261A with Tennessee Eastman Company; Division of Eastman Kodak Company, Covering Arrangements for Adjustment in Operation of TVA Dams which Affect the Minimum Average Daily Flow in South Fork Holston River at Kingsport, Tennessee.

F3. Contract No. TV-71296A with The Swedish Society for Ethanol Development Covering Arrangements for TVA to Make its Specialized Services Available to Conduct Tests Related to Production of Ethanol and other Chemicals from Biomass.

F4. Project Order Under Memorandum of Understanding (TV-71249A) Between TVA and Directorate of Engineering and Housing, Fort McPherson, Georgia, for TVA Support to the United States Army Forces Command in Connection with Energy Resources Management.

F5. Supplement No. 3 to Interagency Agreement No. TV-66369A with United States Army Engineers Waterways Experiment Station, Corps of Engineers, for Continuation of Work by TVA on the Repair, Evaluation, Maintenance and Rehabilitation Research Testing Program To Evaluate Polyester Resins; Expoxies, and Cementitious Anchorage Grouting Systems.

F6. Supplement No. 3 to Interagency Agreement No. TV-66099A with the United States Department of Energy, Western Area Power Administration, Covering Arrangements for TVA to Continue Providing Equipment Inspection Services.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 245-0101.

Dated: March 25, 1987.

John G. Stewart,

Manager of Corporate, Administration and Planning.

[FR Doc. 87-6955 Filed 3-26-87; 9:08 am]

BILLING CODE 8120-01-M

UNITED STATES INSTITUTE OF PEACE

TIME AND DATES:

9:00 a.m.-5:00 p.m., Thursday, April 2, 1987
9:00 a.m.-5:00 p.m., Friday, April 3, 1987

PLACE: National Trust for Historic Preservation, 1785 Massachusetts Avenue, NW, Washington, DC 20035.

STATUS: Open (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Pub. L. 98-525).

AGENDA (TENTATIVE): Meeting of Board of Directors convened. Committee Reports. Consideration of minutes of the eleventh meeting. Consideration of grant applications.

CONTACT: Mrs. Olympia Diniak. Telephone: (202) 789-5700.

Dated: March 25, 1987.

Robert F. Turner,

President, United States Institute of Peace.

[FR Doc. 87-7015 Filed 3-26-87; 2:47 pm]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 52, No. 60
Monday, March 30, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62050; FRL 3104-1]

Asbestos Abatement Projects; Worker Protection

Correction

In rule document 87-3645 beginning on page 5618 in the issue of Wednesday, February 25, 1987, make the following corrections:

§ 763.121 [Corrected]

1. On page 5623, in the third column, in § 763.121(b), in the 12th line, "cummingtonit" should read "cummingtonite".

2. On page 5629, in the first column, in Appendix A to § 763.121, in the heading, the reference "6" after "To" should read "§ ".

3. On page 5631, in the third column, in Appendix C to § 763.121, in "paragraph 8.", in the third line, after "i. e." insert "1".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

OPP-180722; FRL-3166-4]

Delaware Department of Agriculture; Receipt of Applications for Emergency Exemptions To Use (±)-2-[4,5-Dihydro-4-Methyl-4-(1-Methylethyl)-5-Oxo-1H-Imidazol-2-yl]-5-Ethyl-3-Pyridinecarboxylic Acid; Solicitation of Public Comment

Correction

In notice document 87-4976 beginning on page 7307 in the issue of Tuesday, March 10, 1987, make the following corrections:

1. On page 7307, in the third column, in the **SUMMARY**, in the eighth line, "ethly" should read "ethyl" and, in the ninth line, "Pursuit)" should read "(Pursuit™)".

2. On page 7308, in the first paragraph, in the fifth line, "methly" should read "methyl"; in the sixth line, "ethly" should read "ethyl", and the eighth line should read: "5), manufactured as Pursuit™), by".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59708; FRL-3166-3]

Certain Chemicals Premanufacture Notices

Correction

In notice document 87-4977 appearing on page 7307 in the issue of Tuesday, March 10, 1987, make the following correction:

1. On page 7307, in the first column, in the **SUPPLEMENTARY INFORMATION**, in the fifth line, "or" should read "on".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87N-0078]

J.D. Copanos and Sons, Inc. and Kanasco, Ltd.; Proposal To Withdraw Approval of New Drug Applications and New Animal Drug Applications for Sterile Injectable Products; Opportunity for a Hearing

Correction

In notice document 87-5160 beginning on page 7311 in the issue of Tuesday, March 10, 1987, make the following corrections:

1. On page 7312, in the first column, under **DATES**, in the fourth line, "Mar" should read "May".

2. On the same page, in the second column, in the fifteenth line of the last complete paragraph, between "with" and "FDA" insert "another".

3. On page 7316, in the third column, in the first line, "files" should read "fills".

4. On page 7318, in the first column, in the 10th line of the list of drug applications, "Ampicillin G sodium" should read "Ampicillin sodium".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 109 and 274a

Control of Employment of Aliens

Correction

In proposed rule document 87-5839 beginning on page 8762 in the issue of Thursday, March 19, 1987, make the following correction:

§ 274a.2 [Corrected]

On page 8764, in the third column, in § 274a.2 (b)(1)(v)(A)(*5*), in the second line, "I-15" should read "I-151".

BILLING CODE 1505-01-D

federal register

Monday
March 30, 1987

Part II

Information Security Oversight Office

32 CFR Part 2003

National Security Information; Standard Forms; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2003

National Security Information; Standard Forms

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to 32 CFR Part 2003 provides for the use within the executive branch of the following standard forms that pertain to national security information: TOP SECRET Label: SF 706; SECRET Label: SF 707; CONFIDENTIAL Label: SF 708; CLASSIFIED Label: SF 709; UNCLASSIFIED Label: SF 710; and DATA DESCRIPTOR Label: SF 711. The purpose of the standard forms prescribed in Subpart B is to promote the implementation of the government-wide information security program.

EFFECTIVE DATE: March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ethel R. Theis or Laura Kimberly at 202-535-7251 (FTS 535-7251).

SUPPLEMENTARY INFORMATION: Section 5.2(b)(7) of Executive Order 12356 authorizes the Director of ISOO to prescribe the use of standard forms that will promote the implementation of the government-wide information security program. ISOO has developed these forms in coordination with those agencies that will be primarily affected by them. The information collection requirements contained in this rule (Subpart B) are not subject to Office of Management and Budget clearance under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 2003

Classified information, Executive orders, Information, National security information, Security information.

PART 2003—NATIONAL SECURITY INFORMATION—STANDARD FORMS

1. The authority citation for 32 CFR Part 2003 continues to read:

Authority: Sec. 5.2(b) (7) of E.O. 12356.

Subpart A—General Provisions

2. Section 2003.3 is revised to read as follows:

§ 2003.3 Waivers.

Except as specifically provided, waivers from the mandatory use of the standard forms prescribed in Subpart B may be granted only by the Director of ISOO.

Subpart B—Prescribed Forms

§2003.20 [Amended]

3. In § 2003.20(e) remove the following cross reference: "(Also see 32 CFR 2003.3 and 41 CFR 201-45.5.)"

4. Subpart B is amended by adding § 2003.27 through 2003.32 to read as follows:

§ 2003.27 TOP SECRET Label SF 706.

(a) SF 706 is used to identify and protect automatic data processing (ADP) media and other media that contain TOP SECRET information. SF 706 is used instead of the SF 703 for media other than documents.

(b) SF 706 shall be used in all situations that call for the use of a TOP SECRET Label. Agency-wide use of SF 706 shall begin when supplies of existing forms are exhausted or January 31, 1988, whichever occurs earlier.

(c) SF 706 is affixed to the medium containing TOP SECRET information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the Label has been applied, it cannot be removed.

(d) Only the Director of ISOO may grant a waiver from the use of SF 706. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision.

(e) The national stock number of the SF 706 is 7540-01-207-5536.

§ 2003.28 SECRET Label SF 707.

(a) SF 707 is used to identify and protect automatic data processing (ADP) media and other media that contain SECRET information. SF 707 is used instead of the SF 704 for media other than documents.

(b) SF 707 shall be used in all situations that call for the use of a SECRET Label. Agency-wide use of SF 707 shall begin when supplies of existing forms are exhausted or January 31, 1988, whichever occurs earlier.

(c) SF 707 is affixed to the medium containing SECRET information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the Label has been applied, it cannot be removed.

(d) Only the Director of ISOO may grant a waiver from the use of SF 707. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision.

(e) The national stock number of the SF 707 is 7540-01-207-5537.

§ 2003.29 CONFIDENTIAL Label SF 708.

(a) SF 708 is used to identify and protect automatic data processing (ADP) media and other media that contain CONFIDENTIAL information. SF 708 is used instead of the SF 705 for media other than documents.

(b) SF 708 shall be used in all situations that call for the use of a CONFIDENTIAL Label. Agency-wide use of SF 708 shall begin when supplies of existing forms are exhausted or January 31, 1988, whichever occurs earlier.

(c) SF 708 is affixed to the medium containing CONFIDENTIAL information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the Label has been applied, it cannot be removed.

(d) Only the Director of ISOO may grant a waiver from the use of SF 708. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision.

(e) The national stock number of the SF 707 is 7540-01-207-5538.

§ 2003.30 CLASSIFIED Label SF 709.

(a) SF 709 is used to identify and protect automatic data processing (ADP) media and other media that contain classified information pending a determination by the classifier of the specific classification level of the information.

(b) SF 709 shall be used in all situations that require the use of a CLASSIFIED Label. Agency-wide use of SF 709 shall begin when supplies of existing forms are exhausted or January 31, 1988, whichever occurs earlier.

(c) SF 709 is affixed to the medium containing classified information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the Label has been applied, it cannot be removed. When a classifier has made a determination of the spedific level of classification of the information contained on the medium, either SF 706, SF 707, or SF 708 shall be affixed on top of SF 709 so that only the SF 706, SF 707, or SF 708 is visible.

(d) Only the Director of ISOO may grant a waiver from the use of SF 709. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision.

(e) The national stock number of the SF 709 is 7540-01-207-5540.

§ 2003.31 UNCLASSIFIED Label SF 710.

(a) In a mixed environment in which classified and unclassified information are being processed or stored, SF 710 is used to identify automatic data processing (ADP) media and other media that contain unclassified information. Its function is to aid in distinguishing among those media that contain either classified or unclassified information in a mixed environment.

(b) SF 710 shall be used in all situations that require the use of an UNCLASSIFIED Label. Agency-wide use of SF 710 shall begin when supplies of existing forms are exhausted or January 31, 1988, whichever occurs earlier.

(c) SF 710 is affixed to the medium containing unclassified information in a manner that would not adversely affect operation of equipment in which the medium is used. Once the Label has been applied, it cannot be removed. However, the label is small enough so that it can be wholly covered by a SF 706, SF 707, SF 708 or SF 709 if the medium subsequently contains classified information.

(d) Only the Director of ISOO may grant a waiver from the use of SF 710. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision.

(e) The national stock number of the SF 710 is 7540-01-207-5539.

§ 2003.32 DATA DESCRIPTOR Label SF 711.

(a) SF 711 is used to identify additional safeguarding controls that pertain to classified information that is stored or contained on automatic data processing (ADP) or other media.

(b) SF 711 shall be used in all situations that require the use of a DATA DESCRIPTOR Label. Agency-wide use of SF 711 shall begin when supplies of existing forms are exhausted or January 31, 1988, whichever occurs earlier.

(c) SF 711 is affixed to the ADP medium containing classified information in a manner that would not adversely affect operation of equipment in which the medium is used. SF 71 is ordinarily used in conjunction with the SF 706, SF 707, SF 708 or SF 709, as appropriate. Once the Label has been applied, it cannot be removed. The SF 711 provides spaces for information that should be completed as required.

(d) Only the Director of ISOO may grant a waiver from the use of SF 711. To apply for a waiver, an agency must submit its proposed alternative form to the Director of ISOO along with its justification for use. The Director of ISOO will review the request and notify the agency of the decision.

(e) The national stock number of the SF 711 is 7540-01-207-5541.

Dated: March 25, 1987.

Steven Garfinkel,

Director.

[FR Doc. 87-6903 Filed 3-27-87; 8:45 am]

BILLING CODE 6820-AF-M

federal register

Monday
March 30, 1987

Part III

Department of Health and Human Services

Public Health Service

42 CFR Part 57

Nursing Student Loan Program; Final Regulations

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 57

Nursing Student Loan Program

AGENCY: Public Health Service, HHS.

ACTION: Final regulations.

SUMMARY: This rule revises existing regulations governing the Nursing Student Loan (NSL) program to conform those regulations with amendments made to the Public Health Service Act by Pub. L. 99–92, the Nurse Education Amendments of 1985.

EFFECTIVE DATE: These regulations are effective March 30, 1987.

FOR FURTHER INFORMATION CONTACT: Ms. Peggy Washburn, Chief, Program Development Branch, Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857; telephone number: 301 443–4540.

SUPPLEMENTARY INFORMATION: Pub. L. 99–92, the Nurse Education Amendments of 1985, made numerous amendments to the NSL statute, sections 835–842 of the Public Health Service Act (the Act). These final regulations incorporate into the existing NSL regulations those changes necessary to conform the regulations with amendments made by Pub. L. 99–92 (and technical corrections made by Pub. L. 99–129, the Health Professions Training Assistance Act of 1985), and therefore do not require public comment before implementation. The amendments are described below according to the section of the NSL regulations which they affect.

Section 57.302 Definitions.

The Secretary is adding to this section of the regulations definitions for "default" and "grace period." These definitions are consistent with amendments to the Act made by Pub. L. 99–92 and Pub. L. 99–129.

Section 57.305 Nursing student loan funds.

The Secretary is deleting references to the previous authority which allowed a school to transfer a portion of its NSL money to the Nursing Scholarship fund, since Pub. L. 99–92 repealed the transfer provision (former section 841 of the Act).

Section 57.310 Repayment and collection of nursing student loans.

The Secretary is amending paragraph (b)(2) of this section to include the revised late charge provision in Pub. L. 99–92 (section 836(f) of the Act), which provides that, for loans made on or after October 1, 1985, the school must charge a penalty not to exceed 6 percent of the installment payment on any loan that is more than 60 days past due, but is prohibited from charging a penalty on any loan that is 60 days or less past due. In response to some confusion regarding the calculation of the late charge under this provision, the regulations clarify that the charge cannot exceed 6 percent of the amount due at the time the charge is calculated. The regulatory provision gives the school discretion, in accordance with the statute, in determining the amount of the charge within the 6 percent maximum, and thus allows the school to decide:

(1) Whether to assess the charge on a percentage basis, as a flat dollar amount, or as a combination of the two; and

(2) Whether to calculate the charge on the total amount due at the time the charge is calculated or on a portion of the amount due.

As authorized by an amendment made to section 6103(m) of the Internal Revenue Code of 1954 by Pub. L. 99–92, the Secretary is also adding a new paragraph (b)(5) which states that the Secretary may request from the Internal Revenue Service (IRS) the address of a defaulted NSL borrower. This information may be disclosed by the Secretary to the school from which the borrower received the NSL loan for the purpose of locating the defaulted borrower to collect the loan. This provision also requires that any school which requests address information from IRS records must comply with the requirements of the Secretary and the IRS regarding the safeguarding and proper handling of this information.

Section 57.316a Performance standard.

In accordance with Pub. L. 99–92 (section 835(c) of the Act), the Secretary is amending this section to include the statutory default formula.

Since these regulations include only revisions necessary to conform the NSL regulations with statutory amendments, the Secretary has determined pursuant to 5 U.S.C. 553 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures.

Regulatory Flexibility Act and Executive Order 12291

The Department believes that the resources required to implement the requirements in these regulations are minimal in comparison to the overall resources of nursing schools. Therefore, in accordance with the requirements of the Regulatory Flexibility Act of 1980, the Secretary certifies that these regulations will not have a significant impact on a substantial number of nursing schools.

The Department has also determined that this rule is not a major rule under Executive Order 12291; therefore, a regulatory impact analysis is not required. In addition, the rule will not exceed the threshold level of $100 million established in section (b) of Executive Order 12291.

Paperwork Reduction Act

These regulations do not affect the recordkeeping, reporting, or disclosure/notification requirements for the NSL program.

List of Subjects in 42 CFR Part 57

Dental health, Grant programs-health, Education of disadvantaged, Health facilities, Educational facilities, Health professions, Educational study programs, Loan programs-health, Emergency medical services, Medical and dental schools, Grant programs-education, Scholarships and fellowships, Student aid.

Dated: January 22, 1987.

Robert E. Windom,

Assistant Secretary for Health.

Approved: March 13, 1987.

Otis R. Bowen,

Secretary.

(Catalog of Federal Domestic Assistance, No. 13.364, Nursing Student Loan Program)

PART 57—[AMENDED]

Accordingly, Subpart D of 42 CFR Part 57 is amended as follows:

Subpart D—Nursing Student Loans

1. The authority for Subpart D is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, 67 Stat. 631, (42 U.S.C. 216); sections 835–842 Public Health Service Act, 78 Stat. 913–916, as amended, 99 Stat. 397–400, 536–537 (42 U.S.C. 297a–h).

2. Section 57.302 is amended by adding definitions for "default" and "grace period" as follows:

§ 57.302 Definitions.

* * * * *

"Default" means the failure of a borrower of a loan made under this subpart to make an installment payment when due, or comply with any other term of the promissory note for such loan, except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy or if the school reasonably concludes from written contacts with the borrower that the borrower intends to repay the loan.

* * * * *

"Grace period" means the period of 9 months beginning on the date upon which a student ceases to be a full-time or half-time student at a school of nursing.

* * * * *

3. Section 57.305 is amended by revising paragraph (a) to read as follows:

§ 57.305 Nursing student loan funds.

(a) *Funds established with Federal capital contributions.* Any fund established by a school with Federal capital contributions will be deposited and carried in a special account of the school. At all times the fund must contain moneys representing the institutional capital contribution. This fund is to be used by the school only for:

(1) Nursing student loans to full-time and half-time students;

(2) Capital distribution as provided in section 838 of the Act or as agreed to by the school and the Secretary; and

(3) Costs of litigation, costs associated with membership in credit bureaus, and, to the extent specifically approved by the Secretary, other collection costs that exceed the usual expenses incurred in the collection of nursing student loans.

* * * * *

4. Section 57.310 is amended by revising paragraph (b)(2) and adding paragraph (b)(5) to read as follows:

§ 57.310 Repayment and collection of nursing student loans.

* * * * *

(b)* * *

(2) *Late charge.* (i) For any nursing student loan made after June 30, 1969, but prior to October 1, 1985, the school may fix a charge for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment under section 836(b)(2) of the Act, or cancellation or repayment under section 836(b)(3) of the Act, for any failure to file timely and satisfactory evidence of the entitlement. The amount of the charge may not exceed $1 for the first month or part of a month by which the installment or evidence is late and $2 for each succeeding month or part of a month. The school may elect to add the amount of this charge to the principal amount of the loan as of the day after the day on which the installment or evidence was due, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

(ii) For any nursing student loan made on or after October 1, 1985, the school shall assess a charge for failure of the borrower to pay all or any part of an installment when the loan is more than 60 days past due and, in the case of a borrower who is entitled to deferment under section 836(b)(2) of the Act, for any failure to file satisfactory evidence of the entitlement within 60 days of the date payment would otherwise be due. No charge may be made if the loan is less than 61 days past due. The amount of this charge may not exceed an amount equal to 6 percent of the amount due at the time the charge is calculated. The school may elect to add the amount of this charge to the principal amount of the loan as of the day on which the charge is calculated, or to make the amount of the charge payable to the school no later than the due date of the next installment following receipt of the notice of the charge by the borrower.

* * * * *

(5) *Disclosure of taxpayer identity information.* Upon written request by the Secretary, the Secretary of the Internal Revenue Service (IRS) may disclose the address of any taxpayer who has defaulted on a nursing student loan, for use only by officers, employees, or agents of the Department, to locate the defaulted borrower to collect the loan. Any such mailing address may be disclosed by the Secretary to any school from which the defaulted borrower received a nursing student loan, for use only by officers, employees, or agents of the school whose duties relate to the collection of nursing student loan funds, to locate the defaulted borrower to collect the loan. Any school which requests and obtains such address information must comply with the requirements of the Secretary and the IRS regarding the safeguarding and proper handling of this information.

5. Section 57.316a is amended by revising the introductory text and paragraphs (a), (b), and (c)(3) as follows:

§ 57.316a Performance standard.

On June 30, 1986, and on each June 30 thereafter, except as provided in paragraph (b) of this section, each school must have a default rate (as calculated under paragraph (a) of this section) of not more than 5 percent.

(a) The default rate for each school shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of the school bears to the matured loans of the school. For this purpose:

(1) The term "defaulted principal amount outstanding" means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans in default for more than 120 days; and

(2) The term "matured loans" means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by the school to students who are:

(i) Enrolled in a full-time or half-time course of study at the school; or

(ii) In their grace period.

(b) Any school that has a default rate greater than 5 percent on June 30, 1986, or on June 30 of any year thereafter will be required to:

(1) Reduce its default rate by 50 percent (or a school with a default rate below 10 percent must reduce its rate to 5 percent) by the close of the following 6-month period; and

(2) By the end of each succeeding 6-month period, reduce its default rate to 50 percent of the required rate for the previous 6-month period, until it reaches 5 percent.

(c) * * *

(3) By the end of the succeeding 6-month period, reduce its default rate to 50 percent of the rate it failed to achieve under paragraph(b) of this section, or 5 percent. A school that meets this requirement will be permitted to resume the use of its nursing student loan funds, but must continue to comply with the requirements of paragraph (b)(2) of this section if its default rate is still greater than 5 percent.

* * * * *

[FR Doc. 87-6900 Filed 3-27-87; 8:45 am]
BILLING CODE 4160-15-M

federal register

Monday
March 30, 1987

Part IV

Department of the Treasury

Customs Service

19 CFR Parts 4, 24, 146 and 178
Harbor Maintenance Fee; Interim Regulations

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 24, 146 and 178

[T.D. 87-44]

Harbor Maintenance Fee

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations.

SUMMARY: This document amends the Customs Regulations to implement provisions of the Water Resources Development Act of 1986 (the Act) which authorizes the Customs Service to assess a harbor maintenance fee of 0.04 percent (.0004) on the value of commercial cargo loaded on or unloaded from a commercial vessel at a port within the definition of the Act. The harbor maintenance fee applies to port uses by commercial vessels which load or unload merchandise or passengers unless specifically exempted from the fee.

The proceeds of the harbor maintenance fee collected by Customs, together with the U.S. portion of the St. Lawrence Seaway tolls collected by the St. Lawrence Seaway Development Corporation, will be deposited in the Harbor Maintenance Trust Fund, which the Act established in the Treasury of the U.S. Amounts in the fund will be made available, subject to appropriations, to the U.S Army Corps of Engineers for the improvement and maintenance of U.S. ports and harbors, as well as to the St. Lawrence Seaway Development Corporation for operation and maintenance of the St. Lawrence Seaway, and to the Department of the Treasury for rebate of the U.S. portion of St. Lawrence Seaway tolls. The amendments are being made on an interim basis due to the limited period of time available to initiate these changes before the law becomes effective. However, any written comments received will be considered before a final rule is issued.

DATE: The interim regulations are effective concerning any port use occurring on or after April 1, 1987. Written comments must be received by May 29, 1987.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jean F. Maguire, Director, User Fee Task Force, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229, Room 2216 (202-566-5868).

SUPPLEMENTARY INFORMATION:

Background

Federal expenditures for development and operations and maintenance of harbors and ports have historically been financed from general revenues. However, the Water Resources Development Act of 1986 (Pub. L. 99-662) (the Act), establishes a Harbor Maintenance Trust Fund to be used to contribute to up to 40 percent of the eligible operation and maintenance of ports and harbors in the U.S. This fund is to be supported by a new harbor maintenance fee assessed on port use by vessels carrying water-borne commercial cargo. By assessing a charge for port use, the Act causes those shippers and importers who benefit from the maintenance of a Federal port or harbor to share in the cost of that maintenance.

The harbor maintenance fee, which will apply to port use associated with imports, exports, and movements of cargo and passengers between identified ports become effective on April 1, 1987. While the Act states the charge is for "port use," liability ensues, according to the statute, only if commercial cargo is either loaded or unloaded from a commercial vessel at a non-exempt port within the definition of the Act.

The Trust Fund, which is established in the Treasury of the U.S., is to receive amounts equivalent to revenues from the port use fees, together with the U.S. portion of the St. Lawrence Seaway tolls collected by the St. Lawrence Seaway Development Corporation. Amounts in the fund will be made available, subject to appropriations, to the U.S. Army Corps of Engineers for the improvement and maintenance of U.S. ports and harbors, as well as to the St. Lawrence Seaway Development Corporation for operation and maintenance of the St. Lawrence Seaway, and to the Department of the Treasury for rebate of the U.S. portion of St. Lawrence Seaway tolls.

The Act provides, with certain exceptions, that whenever there is a port use, a tax should be imposed in an amount equal to 0.04 percent (.0004) of the value of the commercial cargo involved. The tax shall be paid by the importer in the case of cargo entering the U.S., the exporter in the case of cargo being exported from the U.S., and the shipper, in any other case. While the word "tax" is used in the statute, section 4462(f) of the Act provides that the tax imposed shall not be treated as a tax for purpose of any provision of law relating to the administration and enforcement of the internal revenue tax, and that all administrative and enforcement provisions of Customs laws and regulations shall apply in respect of the tax as if such tax were a Customs duty.

The Act authorizes the Customs Service to assess and collect the amount charged for port use because of Customs strong presence at ports of entry and experience with the appraisement and valuation of imported merchandise, as well as the collection of Customs duties and other fees. All collections Customs makes will be deposited in the Harbor Maintenance Trust Fund. The Secretary of the Treasury is authorized by the Act to prescribe regulations as may be necessary to collect the fee.

A public meeting was held on March 11, 1987, pursuant to a Federal Register notice published on February 19, 1987 (52 FR 5237), in which Customs discussed its plans for the collection of the fee. Interim regulations are set forth in this document providing procedures for fee collection. A summary of the provisions in this new regulation, § 24.24, Customs Regulations (19 CFR 24.24), follows.

The Fee

Generally, commercial cargo loaded on or unloaded from a commercial vessel is subject to the fee of 0.04 percent. The fee is based on the value of the cargo that is loaded or unloaded. If the cargo is unloaded after being moved domestically (from one U.S. port to another), the value of the cargo will be determined based on the standard commercial documentation available. If no such documentation is available, the Customs appraised value of the shipment pursuant to 19 U.S.C. 1401a will be used. The Customs appraised value under 19 U.S.C. 1401a will also be the basis for valuing imports. If the cargo is loaded for export, the value of the cargo will be that which is required to be indicated on the Shipper's Export Declaration or on equivalent documentation authorized under 15 CFR 30.39(b). The fee applies to passengers as well as merchandise. For passengers, vessel operators are to be assessed a fee based on the value of the actual charge for transportation paid by each passenger who boards or disembarks from a commercial vessel at a port or, if no actual charge is paid, on the prevailing charge for comparable service.

There are certain exemptions from the fee. Bunker fuel, ship's stores, sea stores, vessel equipment, and fish or other aquatic animal life caught and not previously landed on shore are exempt

from the fee. While commercial vessel is defined as any vessel used in transporting commercial cargo by water for compensation or hire, or in transporting commercial cargo by water in the business of the owner, lessee or operator of the vessel, an exemption is carved out for ferries engaged primarily in the transport of passengers and their vehicles between points within the U.S. or between the U.S. and contiguous countries.

Ports at Which Fee is Required

The Act defines port generally as any channel or harbor or component thereof in the U.S., which is not an inland waterway, is open to public navigation, and at which Federal funds have been used since 1977 for construction, maintenance or operation. If deauthorized by Federal law before 1985, it is not a port within the Act. Customs, in conjunction with the U.S. Army Corps of Engineers, took this definition and established the list of ports which is set forth in § 24.24(b)(1). Commercial ports with depths of less than nine feet were not included on this list. Any loading or unloading of commercial cargo at one of the ports listed subjects the cargo to the harbor maintenance fees unless it is otherwise exempt. The list is subject to change, and the regulations will be amended, if necessary, to reflect money spent by the U.S. Army Corps of Engineers for construction, maintenance or operation of any port not on the list. It is anticipated that the list may be modified to include commercial ports with depths of less than nine feet.

All ports that have been included are within the customs territory of the U.S. Accordingly, ports in Puerto Rico are among those on the list, while ports in Guam, American Samoa and other U.S. possessions are not.

Treatment of Alaska, Hawaii and U.S. Possessions

Certain loadings and unloadings of cargo in Alaska, Hawaii or the U.S. possessions are not subject to the fee. Because of the high dependence of the economies of Alaska, Hawaii and the possessions on waterborne commerce, the Act provides that the fee generally should not apply to the loading of cargo in these areas for shipment to the U.S. mainland for use on the U.S. mainland, or loadings of cargo on the U.S. mainland for shipment to the possessions, Hawaii or Alaska. Cargo loaded on a vessel in Alaska, Hawaii or a possession and unloaded in the state or possession in which loaded is also exempt from the fee. These exemptions are set forth in § 24.24(c)(4). It should be noted that the exemptions in paragraph (c)(4) only apply to the loadings or unloadings of merchandise. Cruise vessel operators still would have to pay the fee if passengers embark or disembark at a port within Alaska, Hawaii or Puerto Rico. It should also be noted that Puerto Rico is considered a possession for the purpose of this section as well as Guam, American Samoa, U.S. Virgin Islands, the Northern Mariana Islands and the Pacific Trust Territories. As indicated above, however, ports in possessions other than Puerto Rico are not considered U.S. ports for the purpose of this Act. Thirdly, it should be noted that loadings or unloadings of crude oil from Alaska are still subject to the harbor maintenance fee. Lastly, regarding this exemption, it should be clear that the exemption in paragraph (c)(4) does not exempt from the fee merchandise shipments from a foreign country unloaded in Alaska, Hawaii or Puerto Rico, or merchandise loaded in Alaska, Hawaii or Puerto Rico that is exported to a foreign country or another possession.

Other Exemptions

Certain other loadings and unloadings of cargo are not subject to payment of the fee. No fee is charged with respect to the loading or unloading of cargo on or from a vessel if any fuel used to move the cargo is subject to the Inland Waterway Fuel Tax (section 4042, Internal Revenue Code of 1954, as amended by Pub. L. 95-502 and Pub. L. 99-662). This is set forth in § 24.24(c)(5).

Cargo entering the U.S. under bond for transportation and direct exportation to a foreign country is also not subject to the fee. However, there are two caveats regarding this exemption concerning cargo entering the U.S. under bond for transportation and exportation to either Canada or Mexico. This exemption will not apply if the Secretary of the Treasury determines that Canada or Mexico has imposed a similar fee on commercial vessels or their cargo. This exemption also will not apply if a cargo diversion study mandated by the Act shows that the fee is not likely to result in a significant diversion of cargo or that the non-applicability of the fee to a given U.S. port would cause economic harm to another U.S. port. This exemption and its caveats for cargo destined under bond for Mexico and Canada is set out in § 24.24(c)(6).

Finally, § 24.24(c)(7) exempts cargo and vessels of any agency or instrumentality of the U.S. from the fee.

Special Rules

The Act sets forth two special rules. Under the authority of the Secretary of the Treasury to exempt any transaction or class of transactions from the fee where the fee is not administratively feasible, two other special rules regarding deminimis transactions, have been set forth in the regulations.

The two special rules in the Act which are set forth in § 24.24 (d)(1) and (d)(2) are the "intraport" rule and "same vessel, same cargo" rule, respectively. According to the "intraport" rule, the fee is not to be assessed on the mere movement of commercial cargo within a port.

The "same vessel, same cargo" rule, which is described in the Act as the "Tax Imposed Only Once" rule provides that if a fee is assessed when cargo is loaded on a vessel, the unloading of the same cargo from the vessel is not subject to the fee. Further, if a fee is assessed when cargo is unloaded from a vessel, the reloading of the same cargo on that vessel is not subject to the fee.

The de minimis rules are set forth in § 24.24(d) (3) and (4). One rule concerns individual shipments and the other concerns a de minimis accumulated amount for quarterly payments. The individual shipment de minimis rule states that the fee shall not be assessed on loadings or unloadings of imported cargo if the shipment would be entitled to be entered under informal entry procedures as provided for in § 143.21, Customs Regulations (19 CFR 143.21); for exported cargo, if the shipment does not require either the filing of a Shipper's Export Declaration as provided for in § 4.63, Customs Regulations (19 CFR 4.63) or equivalent documentation as authorized under 15 CFR 30.39(b); and for domestic cargo movements, if the value of the individual shipment does not exceed $1000.

The de minimis rule for accumulated shipments states that if the total value of all shipments for which a fee was assessed for the quarter does not exceed $10,000, quarterly payment is not required. In other words, if individual shipments for export, domestic movement or admission into foreign trade zones determined not to be subject to an exemption or any of the first three special rules, including the individual shipment de minimis rule, add up to $10,000 or less for a quarter, declaration and payment are not necessary. The de minimis rule for accumulated fees is also applicable to cruise vessel movements.

Collections

The regulations establish separate procedures for collections on cargo being domestically transported (moved between ports), cargo being exported, cargo imported for admission into foreign trade zones, cargo otherwise imported, and passengers transported from or to U.S. ports.

Four of the procedures involve quarterly payments. The only port use for which quarterly payments may not be made is the unloading at a U.S. port of imported cargo which is not to be admitted into a foreign trade zone. As stated in § 24.24(e)(3), the importer of cargo for which formal entry is required, including warehouse entries and temporary importations under bond entries, is liable for the payment of the harbor maintenance fee at the time of unloading and must pay the fee in accordance with normal Customs collection procedures. The U.S. Customs Entry Summary Form (Customs Form 7501) is to be completed with the amount of the fee shown and identified on the form, and the importer is to pay the fee by adding it to any normal duty, tax or fee payable at the time of formal entry.

When imported cargo is admitted directly into a foreign trade zone, quarterly payment is to be the collection method pursuant to § 24.24(e)(3)(iii). Liability still ensues at the time of unloading. However, the applicant for admission of cargo into a foreign trade zone (the person or corporation responsible for bringing merchandise into the zone) is to send in quarterly payment for all shipments unloaded and admitted to the zone during the quarter, or in the case of direct deliveries under §§ 146.39 and 146.40, Customs Regulations (19 CFR 146.39, 146.40), all shipments received in the zone under the bond of the foreign trade zone operator. A check or money order for the accumulated fees is to be sent to Customs along with a summary sheet of all of the applicant's shipments admitted into a foreign trade zone subject to the fee during the quarter.

When cargo that has been transported between ports in the U.S. is unloaded at a port and is subject to the harbor maintenance fee, § 24.24(e)(1) provides that the shipper (the person or corporation who pays the freight) is liable at the time of unloading. The vessel operator must complete the Vessel Operation Report (Army Corps of Engineers Form 3925) and submit it to the Army Corps of Engineers in accordance with that agency's procedures (33 CFR Ch. II, Part 207). The shipper's name, either the Internal Revenue Service or Social Security number of the shipper and the tax exemption code (as it appears in the Vessel Operation Report instructions) claimed for the shipment are to be included on the Vessel Operation Report. The shipper whose name appears on the Vessel Operation Report shall pay the accumulated fees for the quarter by mailing a check or money order to Customs with a summary sheet of the fees.

Section 24.24(e)(2) provides the procedures for harbor maintenance fee collection when cargo is loaded on a vessel for export. The exporter becomes liable for the fee at the time of loading. The Shipper's Export Declaration (SED) or equivalent documentation authorized under 15 CFR 30.39(b) is to be completed and submitted in accordance with § 4.63, Customs Regulations (19 CFR 4.63), and the pertinent Department of Commerce Regulations (15 CFR Part 30). The exporter whose name appears on the SED or equivalent documentation shall pay the accumulated fees for the quarter by mailing a check or money order to Customs. Accompanying the payment shall be either a summary sheet of the fees, or if the exporter files Automated Summary Monthly Shipper's Export Declarations with the Bureau of Census in accordance with Foreign Trade Statistics Regulations, a cover letter identifying the exporter, his exporter identification number (EIN), Census Bureau reporting symbol and the quarter for which the payment is being made.

The final collection procedure is for passengers. Pursuant to § 24.24(e)(4), when a passenger boards or disembarks a commercial vessel at a U.S. port, the operator of that vessel is liable for the payment of the fee. On each cruise, even if a passenger boards or disembarks more than once at ports subject to the fee, the vessel operator is liable only once for that passenger. The operator of the vessel shall pay the accumulated fees for a quarter by mailing a check or money order payable to Customs for all fees for which he is liable and a summary sheet of the fees.

All collections that are to be made on a quarterly basis must be received no later than 31 days after the close of the quarter being paid. Quarterly periods end on the last day of March, June, September and December. Examples of summary sheets to be sent in for each quarterly payment are set out in § 24.24.

Procedures regarding overpayments or underpayments of the fee are being studied and will be the subject of future instructions.

Records Maintenance

Each importer, exporter, applicant for admission of cargo into a foreign trade zone, shipper and cruise vessel operator must maintain the documentation necessary for Customs to verify the accuracy of fee computations. Documentation is to be maintained for 5 years from the date of fee calculation and shall be maintained and made available for inspection, copying, reproduction or other official use by Customs.

Penalties

If the harbor maintenance fee is not paid or the summary sheet not filed as required by these regulations, a penalty shall be assessed equal to the amount of liquidated damages assessable for late filing of an entry summary pursuant to the provisions of § 142.15, Customs Regulations (19 CFR 142.15). The usual Customs procedures for filing an application for relief set forth in Part 171, Customs Regulations (19 CFR Part 171), and mitigation set forth in § 172.22(d)(1), Customs Regulations (19 CFR 172.22(d)(1)), shall apply.

Bonds

Section 4462(h)(2) of the Act provides that the Secretary of the Treasury may prescribe regulations providing for the posting of bonds to secure payment of the harbor maintenance fee. It has been decided that at this time no additional bonds will be required. However, after the fee has been in force for a period of time, bonds may be required if payment of the fee and submission of summary sheets are not regularly submitted as required.

St. Lawrence Seaway

There is no reference in § 24.24 to the St. Lawrence Seaway. The harbor maintenance fee will not be assessed on commercial vessels by reason of traversing the U.S. portion of the St. Lawrence Seaway. Any rebates of tolls issued by the Secretary of the Treasury pursuant to § 805 of the Act will not be issed by Customs, but by the Financial Management Service, U.S. Treasury Department.

Other Amendments

Minor changes are made in this document to Parts 4, 146, and 178, Customs Regulations (19 CFR Parts 4, 146, 178), to cross-reference the harbor maintenance fee.

Comments

Before adopting the interim regulations as a final rule, Customs will give consideration to any written

comments (preferably in triplicate) timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

Inapplicability of Notice and Delayed Effective Date Provisions

The statutory effective date of the harbor maintenance fee is April 1, 1987. In light of the limited deadline imposed upon Customs to implement these changes, it has been determined that, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure is impracticable. For the same reason, pursuant to 5 U.S.C. 553(d)(3), we are dispensing with delayed effective date. However, before adopting final regulations, consideration will be given to all written comments timely submitted.

E.O. 12291 and Regulatory Flexibility Act

Because the amendments do not meet the criteria for a "major rule" within the meaning of E.O. 12291, Customs has not prepared a regulatory impact analysis.

Because no notice of proposed rulemaking is required for these interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), do not apply.

Paperwork Reduction Act

The collections of information contained in the interim regulations have been cleared by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507) and assigned control number 1515-0158.

List of Subjects

19 CFR Part 4

Cargo vessels, Customs duties and inspection, Imports, Passenger vessels, Vessels, Yachts.

19 CFR Part 24

Accounting, Customs duties and inspection, Imports, Taxes.

19 CFR Part 146

Customs duties and inspections, Imports, Exports, Imports, Foreign Trade Zones.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Drafting Information

The principal author of this document was Harold M. Singer, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Amendments to the Regulations

Parts 4, 24, 146, and 178, Customs Regulations (19 CFR Parts 4, 24, 146, 178), are amended as set forth below:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority for Part 24, Customs Regulations, is revised to read as follows:

Authority: 19 U.S.C. 66, 1202, 1624, 31 U.S.C. 9701; Pub. L. 99-272, Pub. L. 99-509, Pub. L. 99-662.

2. Part 24 is amended by adding a new § 24.24 to read as follows:

§ 24.24 Harbor maintenance fee.

(a) *Fee.* Commercial cargo loaded on or unloaded from a commercial vessel is subject to a port use fee of 0.04 percent (.0004) of its value if the loading or unloading occurs at a port within the definition of this section, unless exempt under paragraph (c) of this section or one of the special rules in paragraph (d) of this section is applicable.

(b) *Definitions.* For the purpose of this section:

(1) *Port* means any channel or harbor (or component thereof) in the customs territory of the United States which is not an inland waterway and is open to public navigation and at which Federal funds have been used since 1977 for construction, maintenance or operation. It does not include channels or harbors deauthorized by Federal law before 1985. A complete list of the ports subject to the harbor maintenace fee is set forth below:

Port Code, Port Name, and State	Notations
3126—Anchorage, AK	
3106—Dalton Cache, AK	
3102—Ketchikan, AK	
3127—Kodiak, AK	
3112—Petersburg, AK	
3125—Sand Point, AK	
3115—Sitka, AK	
1901—Mobile, AL	
2813—Alameda, CA	Movement between Alameda-Oakland are intraport.
2830—Carquinez Strait, CA	Movements between this port and Crockett, Martinez and Selby are intraport.
2815—Crockett, CA	See notation for Carquinez Strait.
2802—Eureka, CA	Includes Crescent City.
2709—Long Beach, CA	Includes Dana Point Hbr.; movements between Long Beach-Los Angeles are intraport.
2704—Los Angeles, CA	Do.
2820—Martinez, CA	See notation under Carquinez Strait.
2811—Oakland, CA	Movements between Oakland-Alameda are intraport.
2713—Port Hueneme, CA	Includes Channel Island Hbr.
2821—Redwood City, CA	
2812—Richmond, CA	
2816—Sacramento, CA	
2501—San Diego, CA	Includes Oceanside Hbr.
2809—San Francisco, CA	
2828—San Joaquin, CA	Movements between San Joaquin-Stockton are intraport.
2707—San Luis, CA	
2829—San Pablo Bay, CA	Includes Napa River.
2827—Selby, CA	See notation under Carquinez Strait
2810—Stockton, CA	Movements between Stockton-San Joaquin are intraport.
2831—Suisun Bay, CA	
0601—Bridgeport, CT	Includes Housatonic River, and Stamford Hbr.
0602—Hartford, CT	
0603—New Haven, CT	
0604—New London, CT	
5401—Washington, DC	
1103—Wilmington, DE	
1807—Boca Grande, FL	
1806—Carabelle, FL	
1805—Fernandia Beach, FL	
5205—Fort Pierce, FL	
1803—Jacksonville, FL	
5202—Key West, FL	
5201—Miami, FL	
1818—Panama City, FL	
1819—Pensacola, FL	
1816—Port Canaveral, FL	
5203—Port Everglades, FL	
1820—Port St. Joe, FL	
1814—St. Petersburg, FL	
1801—Tampa, FL	
5204—West Palm Beach, FL	
1701—Brunswick, GA	Includes St. Mary River.
1703—Savannah, GA	
3202—Hilo, HI	
3201—Honolulu, HI	
3203—Kahului, HI	Includes Kaunakakai Hbr.
3204—Nawiliwili-Port Allen, HI	
3901—Chicago, IL	
3904—East Chicago, IL	Includes Indiana Hbr., does not include Buffington Hbr.
3905—Gary, IN	Only Michigan City and Burns Hbr.
2012—Avondale, LA	Movements between all ports in LA are intraport except movements from or to Lake Charles or Morgan City, or from or to Baton Rouge-Gramercy and other LA ports.
2004—Baton Rouge, LA	Movements between Baton Rouge-Gramercy are intraport.
2009—Destrahan, LA	
2010—Gramercy, LA	Movements between Gramercy-Baton Rouge are intraport.
2014—Goodhope, LA	
2017—Lake Charles, LA	
2001—Morgan City, LA	Includes Houma.
2002—New Orleans, LA	
2005—Port Sulphur, LA	
2013—St. Rose, LA	
0401—Boston, MA	
0407—Fall River, MA	
0404—Gloucester, MA	
1303—Baltimore, MD	Includes Susquehanna River and Havre de Grace.
1302—Cambridge, MD	Includes Nanticoke.
0102—Bangor, ME	
0111—Bath, ME	
0132—Belfast, ME	
0101—Portland, ME	
3843—Alpena, MI	Not Stoneport, MI.
3801—Detroit, MI	

Port Code, Port Name, and State	Notations
3844—Ferrysburg, MI	
3816—Grand Haven, MI	
3809—Marquette, MI	
3815—Muskegon, MI	Includes Pentwater Hbr. and South Haven Hbr.
3802—Port Huron, MI	Includes Harbor Beach.
3842—Presque Isle, MI	
3804—Saginaw-Flint-Bay City, MI.	Not Alabaster, MI.
3803—Sault St. Marie, MI	Not Port Dolomite or Port Inland, MI.; includes Manistique, Black River Hbr. and Grand Marais Hbr.
3601—Duluth, MN	
3614—Silver Bay, MN	Only Grand Marais.
1902—Gulfport, MS	
1903—Pascagoula, MS	
1511—Beaufort-Morehead City, NC.	
1501—Wilmington, NC	
0131—Portsmouth, NH	
1107—Camden, NJ	
1113—Gloucester, NJ	
1103—Newark, NJ	Or Port Code 4601; see notation for NY.
1105—Paulsboro, NJ	
1004—Perth Amboy, NJ	Or Port Code 4602; see notation for NY.
1002—Albany, NY	
0901—Buffalo-Niagara Falls, NY.	Includes Cattaraugus.
0706—Cape Vincent, NY	
1001—New York, NY	Movement between NY, Newark and Perth Amboy are intraport.
0701—Ogdensburg, NY	
0904—Oswego, NY	
0903—Rochester, NY	
0905—Sodus Point, NY	Includes Little Sodus Bay Hbr.
4108—Ashtabula, OH	Or Port Code 4122.
4101—Cleveland, OH	
4109—Conneaut, OH	Or Port Code 4122.
4111—Fairport, OH	
4117—Huron, OH	
4121—Lorain, OH	
4105—Toledo-Sandusky, OH	
2901—Astoria, OR	
2903—Coos Bay, OR	Includes Port Orford.
2902—Newport, OR	Includes Tillamook Bay.
2904—Portland, OR	
1102—Chester, PA	
4106—Erie, PA	
1118—Marcus Hook, PA	
1101—Philadelphia, PA	
4907—Mayaguez, PR	
4908—Ponce, PR	
4909—San Juan, PR	
0502—Providence, RI	
1601—Charleston, SC	
1602—Georgetown, SC	
2104—Beaumont, TX	
2301—Brownsville, TX	
5312—Corpus Christi, TX	
5311—Freeport, TX	
5310—Galveston, TX	Includes Port Bolivar.
5301—Houston, TX	
2101—Port Arthur, TX	
5313—Port Lavaca, TX	
2103—Orange, TX	
2102—Sabine, TX	
5306—Texas City, TX	
5402—Alexandria, VA	
1406—Cape Charles, VA	
1408—Hopewell, VA	
1402—Newport News, VA	Movements between Newport News and Norfolk are intraport.
1401—Norfolk, VA	
1404—Richmond-Petersburg, VA.	
3003—Aberdeen, WA	
3005—Bellingham, WA	
3006—Everett, WA	
2909—Kalama, WA	
2905—Longview, WA	
3026—Olympia, WA	
3007—Port Angeles, WA	
3001—Seattle, WA	
3002—Tacoma, WA	
2908—Vancouver, WA	
3602—Ashland, WI	Includes Port Wing.
3703—Green Bay, WI	
3706—Manitowoc, WI	Includes Two Rivers Hbr. and Kewaunee.
3702—Marinette, WI	Includes Oconto.
3701—Milwaukee, WI	
3708—Racine, WI	
3707—Sheboygan, WI	
3608—Superior, WI	

(2) *Commercial cargo* means, unless exempted by paragraphs (c) (1) and (2) of this section, merchandise transported on a commercial vessel and passengers transported for compensation or hire. Whenever the term "cargo" is used, it means merchandise, but not passengers.

(3) *Commercial vessel* means, unless exempted by paragraph (c)(3) of this section, any vessel used in transporting commercial cargo by water for compensation or hire, or in transporting commercial cargo by water in the business of the owner, lessee or operator of the vessel.

(4) *Ferry* means any vessel which arrives in the U.S. on a regular schedule during its operating season at intervals of at least once each business day.

(c) *Exemptions.* The following are not subject to the fee:

(1) Bunker fuel, ship's stores, sea stores and vessel equipment.

(2) Fish or other aquatic animal life, caught and not previously landed on shore.

(3) Ferries engaged primarily in the transport of passengers and their vehicles between points within the U.S. or between the U.S. and contiguous countries.

(4) Certain loadings and unloadings of cargo in Alaska, Hawaii, or the possessions of the U.S. as defined in this paragraph.

(i) Descriptions of exempt loadings/unloadings:

(A) Cargo loaded on a vessel in a port in the U.S. mainland for transportation to Alaska, Hawaii, or any possession of the U.S. for ultimate use or consumption in Alaska, Hawaii, or any possession of the U.S.

(B) Cargo loaded on a vessel in Alaska, Hawaii, or any possession of the U.S. for transportation to the U.S. mainland for ultimate use or consumption in the U.S. mainland.

(C) Cargo described in paragraph (c)(4)(i)(A) of this section unloaded in Alaska, Hawaii, or any possession of the U.S.

(D) Cargo described in paragraph (c)(4)(i)(B) of this section unloaded in the U.S. mainland.

(E) Cargo loaded on a vessel in Alaska, Hawaii, or a possession of the U.S. and unloaded in the state or possession in which loaded.

(ii) For purposes of paragraph (c)(4) of this section:

(A) *Cargo* does not include crude oil with respect to Alaska.

(B) *U.S. mainland* means the continental U.S. excluding Alaska.

(C) *Possessions* of the U.S. means Puerto Rico, Guam, American Samoa, U.S. Virgin Islands, the Northern Mariana Islands and the Pacific Trust Territories.

(5) Commercial vessels, if any fuel used to move the cargo is subject to the Inland Waterway Fuel Tax (See section 4042, Internal Revenue Code of 1954, as amended by Pub. L. 95–502 and Pub. L. 99–662).

(6) Cargo entering the U.S. in bond for transportation and direct exportation to a foreign country, unless, with respect to cargo exported to Canada or Mexico;

(i) The Secretary of the Treasury determines that Canada or Mexico has imposed a substantially equivalent port use fee or commercial vessels or commercial cargo using ports of their countries; or

(ii) A study made pursuant to the Water Resources Development Act of 1986 (Pub. L. 99–662) finds that the fee is not likely to cause significant economic loss to a U.S. port or diversion of a significant amount of cargo to a port in a contiguous country.

(7) Cargo or vessels of the U.S. or any agency or instrumentality of the U.S.

(d) *Special rules.*—(1) *Intraport.* The fee is not to be assessed on the mere movement of commercial cargo within a port.

(2) *Same vessel, same cargo.* If a fee is assessed when cargo is loaded on a vessel, the unloading of the same cargo from that vessel is not subject to the fee. If a fee is assessed when cargo is unloaded from a vessel, the reloading of the same cargo on that vessel is not subject to the fee.

(3) *De minimis for individual shipments.* The fee shall not be assessed on loadings or unloadings of cargo in which:

(i) *For imported cargo:* The shipment would be entitled to be entered under informal entry procedures as provided for in § 143.21 of this chapter.

(ii) *For exported cargo:* The shipment does not require either the filing of a Shipper's Export Declaration (SED) as provided for in § 4.63 of this chapter or equivalent documentation as authorized under 15 CFR 30.39(b).

(iii) *For domestic cargo:* The value of the shipment does not exceed $1,000.

(4) *De minimis for quarterly payments.* Quarterly payment is not required if the total value of all

shipments for which a fee was assessed for the quarter does not exceed $10,000.

(e) *Collections.*—(1) *Domestic vessel movements.*—(i) *Time and place of liability.* Subject to the exemptions and special rules of this section, when cargo is loaded on a commercial vessel at a port within the definition of this section to be transported between ports in the U.S. or is unloaded from a commercial vessel at a port within the definition of this section after having been transported between ports in the U.S., the shipper (the person or corporation who pays the freight) of that cargo is liable for the payment of the port use fee at the time of unloading. The fee will be imposed only once on a movement pursuant to paragraph (d)(2) of this section. The fee is to be based upon the value of the cargo as determined by standard commercial documentation where such documentation is available. Otherwise, the value is to be determined under 19 U.S.C. 1401a as if it were imported merchandise. The Vessel Operation Report (Army Corps of Engineers Form 3925) is to be completed and submitted to the Army Corps of Engineers in accordance with the procedures set forth in 33 CFR Ch. II, Part 207. The shipper's name, either the internal revenue service or social security number of the shipper and the tax exemption code (as it appears in the Vessel Operation Report instructions) claimed for the shipment are to be included on the Vessel Operation Report.

(ii) *Fee payment.* The shipper whose name appears on the Vessel Operation Report shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter and a summary sheet of the fees to U.S. Customs Service, P.O. Box 70904, Chicago, Illinois 60673–0904. The summary sheet should be in the following format:

BILLING CODE 4820-02-M

DOMESTIC VESSEL MOVEMENT SUMMARY SHEET FOR QUARTER DATED FROM_____ TO_____

(Name of Shipper listed on Vessel Operation Report)

(Shipper's IRS or SS # appearing on Vessel Operation Report. Note whether it is SS or IRS #)

Date Unloaded	Origin of Shipment	Destination of Shipment	Commodity Type (Code) Shipped	Value of Shipment

SEND TO:

U.S. Customs Service
P.O. Box 70904
Chicago, Illinois 60673-0904

Collection Class Code 503

Value of Total Shipments for Quarter_____

Total Fee Paid _____
(Total Value x.0004)

CERTIFICATION

I hereby certify under penalties provided by law that the above information regarding domestic shipments subject to the harbor maintenance fee for the quarter ending _____ is complete and accurate to the best of my knowledge.

_____
(Signature of Shipper)

_____
(Date)

BILLING CODE 4820-02-C

(2) *Export vessel movements*—(i) *Time and place of liability.* Subject to the exemptions and special rules of this section, when cargo is loaded on a commercial vessel for export at a port within the definition of this section, the exporter of that cargo (the name that appears on the SED or equivalent document authorized under 15 CFR 30.39(b)) is liable for the payment of the port use fee at the time of loading. The fee is based upon the value of the shipment loaded as required to be indicated on the SED or equivalent documentation. The SED or equivalent documentation is to be completed and submitted in accordance with the procedures set forth in § 4.63 of this chapter and 15 CFR Part 30.

(ii) *Fee payment.* The exporter whose name appears on the SED or equivalent documentation shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter to U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673–0915. Accompanying the payment shall be either a summary sheet of all the fees, or if the exporter files Automated Summary Monthly Shipper's Export Declarations with the Bureau of Census in accordance with Foreign Trade Statistics Regulations (15 CFR 30.39), a cover letter identifying the exporter, his exporter identification number (EIN), Census Bureau reporting symbol and the quarter for which the payment is being made. If a summary sheet is used, it should be in the following format:

BILLING CODE 4820-02-M

EXPORT VESSEL MOVEMENT SUMMARY SHEET FOR QUARTER DATED FROM_____ TO_____

(Name of Exporter Listed on SED) (EIN # Appearing on SED. Note whether it is IRS or SS #

Origin of Shipment	Destination of Shipment	Date of Origin of Shipment	Commodity Type (Code) Shipped*	Value of Shipment

SEND TO:

U.S. Customs Service
P.O. Box 70915
Chicago, Illinois 60673-0915

Total Value of Shipments for Quarter_____

Collection Class Code 502

Total Fee Paid (Total Value x.0004)_____

CERTIFICATION

I hereby certify under penalties provided by law that the above information regarding cargo loaded for export subject to the harbor maintenance fee for the quarter ending _____ is complete and accurate to the best of my knowledge.

_____
(Signature of Exporter)

_____
(Date)

*Show Schedule B number for first line item on SED only.

BILLING CODE 4820-02-C

(3) *Import vessel movements*—(i) *Time and place of liability.* Subject to the exemptions and special rules of this section, when imported cargo is unloaded from a commercial vessel at a port within the definition of this section, and destined for either consumption, warehousing, or foreign trade zone admission, the importer of that cargo, or in the case of foreign trade zones, the person or corporation responsible for bringing merchandise into the zone, is liable for the payment of the port use fee at the time of unloading. The fee is based on the U.S. Customs appraised value of the shipment pursuant to 19 U.S.C. 1401a, the same basis as that used for duty payment. The fee shall be collected on all formal entries, including warehouse entries and temporary importation under bond entries, and admissions into foreign trade zones.

(ii) *Fee payment.* The port use fee on unloading of imported cargo shall be paid in accordance with the normal Customs collection procedures set forth in §§ 24.1 and 141.1 of this chapter, except as provided for merchandise admitted into foreign trade zones in paragraph (e)(2)(iii) of this section. The U.S. Customs Entry Summary Form (Customs Form 7501), is to be completed with the amount of the fee shown and identified on the form. The fee shall be paid by the importer by adding it to any normal duty, tax or fee payable at the time of formal entry processing.

If no other duty, tax, or fee is imposed on the shipment, and the fee exceeds $3, a check or money order for the amount of the fee shall be attached to the Customs entry forms submitted.

(iii) *Foreign trade zones.* In cases where imported cargo is unloaded from a commercial vessel at a port within the definition of this section and admitted into a foreign trade zone, the applicant for admission (the person or corporation responsible for bringing merchandise into the zone) who becomes liable for the fee at the time of unloading pursuant to paragraph (e)(3)(i) of this section, shall pay all fees for which he is liable on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for the quarter and a summary sheet of the fees to U.S. Customs, P.O. Box 70981, Chicago, Illinois 60673-0981. Fees shall be paid for all shipments unloaded and admitted to the zone, or in the case of direct deliveries under §§ 146.39 and 146.40 of this chapter, unloaded and received in the zone under the bond of the foreign trade zone operator. The summary sheet should be in the following format:

BILLING CODE 4820-02-M

FOREIGN TRADE ZONE ADMISSIONS SUMMARY SHEET FOR QUARTER DATED FROM_____ TO_____

(Name of Applicant Listed on CF 214)

(Applicant's IRS or SS #. Note whether it is IRS or SS #)

Zone # or Subzone #_____

Dated Unloaded Origin of Shipment Commodity Value of Shipment

_____

_____

_____

SEND TO:

U.S. Customs Service
P.O. Box 70981
Chicago, Illinois 60673-0981

Total Value of Shipments for Quarter_____

Collection Class Code 505

Total Fee Paid (Total Value x.0004)_____

CERTIFICATION

I hereby certify under penalties provided by law that the above information regarding importations into foreign trade zones subject to the harbor maintenance fee for the quarter ending _____ is complete and accurate to the best of my knowledge.

_____
(Signature of Applicant for Admission)

_____
(Date)

BILLING CODE 4820-02-C

(4) *Passengers*—(i) *Time and place of liability.* Subject to the exemptions and special rules of this section, when a passenger boards or disembarks a commercial vessel at a port within the definition of this section, the operator of that vessel is liable for the payment of the port use fee. The fee is to be based upon the value of the actual charge for transportation paid by the passenger or on the prevailing charge for comparable service if no actual charge is paid. The vessel operator on each cruise is liable only once for the port use fee for each passenger.

(ii) *Fee payment.* The operator of the passenger-carrying vessel shall pay the accumulated fees on a quarterly basis in accordance with paragraph (f) of this section by mailing a check or money order payable to the U.S. Customs Service for all fees for which he is liable for the quarter and a summary sheet of the fees to U.S. Customs Service, P.O. Box 70969, Chicago, Illinois 60673–0969. The summary sheet should be in the following format:

BILLING CODE 4820-02-M

CRUISE VESSEL SUMMARY SHEET FOR QUARTER DATED FROM_____ TO_____

(Name of Carrier)
(Name of Vessel Operator)

(Vessel Operator's IRS or SS #. Note whether it is IRS or SS #)

Dates of Cruise	Number of Passengers on Cruise	Total Eligible Charges for Passengers on Cruise

SEND TO:

U.S. Customs Service
P.O. Box 70969
Chicago, Illinois 60673-0969

Collection Class Code 504

Total Eligible Charges for Passengers for Quarter_____

Total Fee Paid (Total Charges x.0004)_____

CERTIFICATION

I hereby certify under penalties provided by law that the above information regarding passengers transported during the quarter ending _____ subject to the harbor maintenance fee is complete and accurate to the best of my knowledge.

_____
(Signature of Vessel Operator)

_____
(Date)

BILLING CODE 4820-02-C

(f) *Quarterly payments.* All quarterly payments required by this section must be received no later than 31 days after the close of the quarter being paid. Quarterly periods end on the last day of March, June, September, and December.

(g) *Maintenance of records.* Each importer, exporter, applicant for admission of cargo into a foreign trade zone, shipper and cruise vessel operator affected by this section shall maintain all such documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation shall be maintained for a period of 5 years from the date of fee calculation. The affected parties shall advise the Director, National Finance Center, Attn: Billings and Collections, P.O. Box 68903, Indianapolis, Indiana 46268, of the name, address, and telephone number of a responsible officer who shall be able to verify any records required to be maintained under this paragraph. The Director, National Finance Center, shall be promptly notified of any changes in the identifying information submitted. The records shall be maintained and made available for inspection, copying, reproduction or other official use by Customs in accordance with the provisions of §§ 162.1a through 162.1i of this chapter.

(h) *Penalties for failure to pay harbor maintenance fee and file summary sheet.*—(1) *Amount of penalty.* Any party (including the importer, exporter, or shipper) who fails to pay the harbor maintenance fee and file the summary sheet at the time specified by regulation shall incur a penalty equal to the amount of liquidated damages assessable for late filing of an entry summary pursuant to the provisions of § 142.15 of this chapter.

(2) *Application for relief.* The party shall follow the procedures set forth in Part 171 of this chapter in filing an application for relief.

(3) *Mitigation.* Any penalty assessed under this provision shall be mitigated in a manner consistent with guidelines published pursuant to the provisions of § 172.22(d)(1) of this chapter relating to cancellation of claims for liquidated damages for late filing of entry summaries.

(i) *Privacy Act notice.* Whenever an identification number is requested on the summary sheets provided for in paragraph (e) of this section, the disclosure of the social security number is mandatory when an internal revenue service number is not disclosed. Identification numbers are solicited under the authority of Executive Order 9397 and Pub. L. 99–662. The identification number provides unique identification of the party liable for the payment of the harbor maintenance fee. The number will be used to compare the information on the summary sheets with information submitted to the government on other forms required in the course of shipping, exporting or importing merchandise, which contain the identification number, *e.g.*, the SED, Vessel Operation Report, to verify that the information submitted is accurate and current. Failure to disclose an identification number may cause a penalty pursuant to paragraph (h) of this section. The above information is set forth pursuant to the Privacy Act of 1974 (Pub. L. 93–579).

Conforming Amendments; Parts 4, 146, and 178, Customs Regulations

To conform the Customs Regulations to the changes made by the amendments to Part 24, Customs Regulations (19 CFR Part 24), Parts 4, 146, and 178 (19 CFR Parts 4, 146, 178), are amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for Part 4 continues to read as following:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 2, 3.

2. Part 4 is revised by adding a new paragraph (j) to § 4.98 to read as follows:

§ 4.98 Navigation fees.

* * * * *

(j) The loading or unloading of merchandise or passengers from a commercial vessel at a U.S. port may cause the harbor maintenance fee set forth in § 24.24 of this chapter to be assessed.

PART 146—FOREIGN TRADE ZONES

1. The authority citation for Part 146 continues to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (Gen. Hdnote 11), 1623, 1624, § 146.5 also issued under 31 U.S.C. 9701.

2. Part 146 is amended by adding a new paragraph (e) to § 146.22 to read as follows:

§ 146.22 Admission of merchandise to a zone.

* * * * *

(e) *Harbor maintenance fee.* When imported cargo is unloaded from a commercial vessel at a U.S. port and admitted into a foreign trade zone, the applicant for admission of that cargo into the zone may be subjet to the harbor maintenance fee as set forth in § 24.24 of this chapter.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3510 *et seq.*

2. Section 178.2 is amended by inserting the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	Description	OMB Control No.
§ 24.24	Harbor maintenance fee	1515–0158

Michael H. Lane,
Acting Commissioner of Customs.

Approved:

Francis A. Keating II,
Assstant Secretary of the Treasury.

March 24, 1987.

[FR Doc. 87–7006 Filed 3–27–87; 8:45 am]
BILLING CODE 4820–02–M

Reader Aids

Federal Register

Vol. 52, No. 60

Monday, March 30, 1987

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MARCH

6123-6316.....2
6317-6492.....3
6493-6768.....4
6769-6950.....5
6951-7102.....6
7103-7262.....9
7263-7396.....10
7397-7558.....11
7559-7816.....12
7817-8052.....13
8053-8222.....16
8223-8438.....17
8439-8580.....18
8581-8858.....19
8859-9106.....20
9107-9280.....23
9281-9450.....24
9451-9648.....25
9649-9792.....26
9793-10020.....27
10021-10212.....30

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III.....7814, 7879

3 CFR

Proclamations:
5612.....6123
5613.....6125
5614.....6769
5615.....6771
5616.....7263
5617.....7265
5618.....8439
5619.....8441
5620.....8443
5621.....9281
5622.....9283
5623.....9793

Executive Orders:
12362 (Amended by EO 12585).....6773
12368 (Amended by EO 12590).....10021
12473 (See EO 12586).....7103
12585.....6773
12586.....7103
12587.....7397
12588.....8859
12589.....8861
12590.....10021

Administrative Orders:
Presidential Determinations:
No. 87-10 of March 5, 1987.....9107
No. 87-11 of March 12, 1987.....9795

4 CFR

Proposed Rules:
21.....9664

5 CFR

110.....7399
300.....7399
351.....10023
410.....7402
831.....10025
1600.....6127
1630.....8053

Proposed Rules:
340.....9867
752.....9867
572.....7427
930.....8909

7 CFR

8.....8432
52.....6129
57.....7817
68.....7817
210.....7559, 9109
215.....7559, 7560
220.....7559
227.....8223
240.....7267
271.....7554
272.....7554
273.....7554
274.....7554
278.....7554
300.....6951
301.....7562, 9285
318.....8863
403.....6775
413.....6775
418.....7818
419.....7818, 9285
420.....7818
421.....6775, 7818
424.....7818
425.....6775
427.....7818
430.....6775
432.....7818
435.....6775
436.....6775
438.....6775
446.....6775
448.....6775, 7818
452.....9287
736.....8056
800.....6493
905.....10026
907.....6952, 7819, 9110, 9797
908.....7820
910.....7115, 8058, 9111, 9797
911.....7115
915.....7115
925.....8865
932.....7402
944.....8865
947.....7119
948.....7268
980.....8871
985.....9451
1102.....6317
1106.....6317
1434.....6775
1806.....7998
1822.....7998
1901.....7998
1910.....6497
1924.....7998
1930.....7998
1933.....7998
1940.....7998
1942.....7998
1943.....7998
1944.....6132, 7998, 9111, 9649
1945.....7998

1951 ..... 6132, 6319, 9111
1955 7998
1965 9111
1980 6498
3900 9798
3901 9798
Proposed Rules:
53 6577
54 6577
55 ..... 6162, 8404
56 ..... 6162, 8404
59 ..... 6162, 8404
70 ..... 6162, 8404
272 7158
273 7158
275 7158
422 9301
736 10104
795 9302
800 7880
810 ..... 7880, 8455
908 7884
911 10108
912 6980
916 9173
917 ..... 6165, 9173
932 6166
946 6167
948 6168
959 ..... 7428, 9870
980 ..... 7428, 9870
1040 8074
1097 8075
1137 6579
1493 8605
1930 8606
1944 ..... 7584, 8606
1965 8606
2201 ..... 6803, 8611

8 CFR

3 7369
214 7062
242 6132
245 6320
249 6320
Proposed Rules:
100 8740
103 8740
109 ..... 8762, 10187
210 8745
211 8740
212 8740
234 8740
242 ..... 7741, 8740
245a 8752
264 8740
274a 8762, 10187
299 8740

9 CFR

51 6523
75 7403
77 8223
78 ..... 6524, 9452
91 8224
92 8436
94 8436
113 9116
303 10028
381 10028
Proposed Rules:
92 9871
94 7885
319 9303

10 CFR

19 8225
20 8225
21 8225
30 8225
35 9292
39 8225
40 ..... 8225, 9649
50 9453
51 8225
55 9453
70 ..... 8225, 9649, 10033
71 8225
73 ..... 6310, 7821, 9649
74 10033
110 9649
150 8225
456 6710
Proposed Rules:
2 6287
30 7432
40 7432
50 ..... 6334, 6650, 6980, 7432, 7887, 8075, 8460, 8917
55 ..... 7432, 7887
60 7432
61 7432
70 7432
71 7432
72 7432
110 7432
150 7432
430 7972
456 6754
458 6754

11 CFR

Proposed Rules:
110 6580

12 CFR

500 ..... 7120, 8550
505 7120
505a 7120
505b 7120
508 7120
522 7120
523 7120
545 7120
546 9799
552 ..... 7120, 9799
555 7120
556 ..... 7120, 8550
561 ..... 7120, 8242, 8550
563 ..... 7120, 7821, 8188, 8242, 8550, 9799
563b 7120, 8550
563c 7120, 8550
564 7120
569 7120
571 7120
572 7120
572a 9799
574 ..... 7120, 9799
584 7120
620 8581
701 8058
748 8062
Proposed Rules:
225 9304
332 7442
563 8207
564 8611
571 7887

13 CFR

121 6133
Proposed Rules:
121 8261

14 CFR

21 ..... 7261, 8040
23 7261
36 7261
39 ..... 6133, 6135, 6287, 6776, 6777, 6952-6956, 7405, 7564-7568, 7823, 8062, 8581, 8582, 8872, 9119, 9293, 9469, 9470, 10043
43 6650
71 ..... 6136, 6778, 7262, 7369, 7370, 7390, 7406, 8242, 8243, 8873, 9121, 9383, 10044
73 ..... 7370, 8874
91 ..... 6650, 7261, 9622, 9768
97 ..... 8244, 10045
121 ..... 6650, 9622
125 ..... 6956, 9622
127 6650
135 ..... 6650, 7261, 9622, 9768
241 ..... 6524, 9122
Proposed Rules:
Ch. I 8078, 8918
21 ..... 9176, 10109-10111
23 ..... 9176, 10109-10111
36 ..... 7618, 8050
39 ..... 6170, 6804, 6987, 7443, 7619, 8079, 8081, 8082, 8263, 8265, 8612-8615, 8919, 9181, 10113, 10114
71 ..... 6805, 6988, 6989, 7279, 7444, 7445, 8730, 8920, 8921, 9182-9184, 9312, 9313, 10115
75 ..... 6989, 8920-8923
91 7618
159 7446

15 CFR

371 ..... 6137, 6649
372 6137
373 ..... 6137, 9147
374 6137
376 9147
379 6137
385 9147
386 6137
387 6137
389 6137
399 ..... 6137, 8445
806 8445
Proposed Rules:
371 8265
374 8265
399 ..... 8265, 9241

16 CFR

13 ..... 6540, 7407, 8446, 9294, 9655
702 7569
801 7066
802 7066
803 7066
Proposed Rules:
13 ..... 6172, 6806, 8461
703 9314
801 7095
802 7095
803 7095

17 CFR

1 6139
16 6139
240 ..... 8875, 9151
249 9151
Proposed Rules:
1 6812
15 6812
19 6812
140 6588
150 6812
230 8268
239 8268
240 6340
270 ..... 7166, 8268, 8302
274 ..... 7166, 8268

18 CFR

3 7824
271 6545
292 9161
375 7824
385 6957
388 7824
389 9161
1301 7407
Proposed Rules:
4 8463
11 8463
35 8616
271 7891
292 6822
375 8463

19 CFR

4 10198
6 10047
24 10198
101 7124
113 9784
133 9471
134 7825
146 10198
151 9784
178 ..... 9784, 10047, 10198
192 8308
Proposed Rules:
133 9498

20 CFR

404 8246
416 8877
Proposed Rules:
404 10116
416 8309

21 CFR

5 ..... 6970, 7269, 7829, 7969
74 ..... 7261, 7829
81 6323
101 6971
176 6649
178 6323
312 8798
314 8798
331 7830
332 7830
341 ..... 7126, 7830
344 7830
357 7830
436 8550
449 7741
455 8550
510 ..... 7831, 7833, 9295, 9756
511 8798
514 8798
520 ..... 7831, 9756

522.....7831, 7833, 9756
524.....7831, 9756
529.....7831, 9756
558.....6649, 7261, 7833, 7834, 9295
571.....8583
1308.....6546, 7270, 9802-9806
Proposed Rules:
193.....6344
312.....8850
358.....9992
561.....6344
1308.....7280

22 CFR

33.....7528
514.....7370

23 CFR

655.....7126
658.....7834
777.....8250
Proposed Rules:
655.....7172

24 CFR

40.....9477
146.....7408
200.....6778, 8064, 9827
201.....7841
203.....6908, 7841, 7842, 8064, 9295, 9989
204.....6908, 8064, 9989
213.....8064, 9989
220.....8064, 9989
221.....8064, 9989
222.....8064, 9989
226.....8064, 9989
227.....8064, 9989
234.....7841, 8064, 9989
235.....8064, 9989
237.....8064, 9989
240.....8064, 9989
243.....9161
278.....6300
511.....9161, 9295
570.....6140, 6971
842.....9161
882.....9477, 9827
886.....9827
888.....9478
942.....9161
Proposed Rules:
203.....9666
234.....9666

25 CFR

249.....9655
Proposed Rules:
11.....9669
40.....6482
167.....6822

26 CFR

1.....6428, 6468, 7281, 7408, 8447, 9161, 10049-10052
5f.....7408
5h.....8405, 10085
46.....9656
301.....6779, 9296
602.....6428, 6468, 6779, 7408, 10052
Proposed Rules:
1.....6467, 7449, 8471, 9185, 10118
7.....7281
20.....7281
25.....7281
53.....7281
56.....7281
602.....6467, 7449

27 CFR

71.....7370
178.....7132
Proposed Rules:
19.....9873
197.....9873
250.....9873
251.....9873

28 CFR

2.....7574, 8405
14.....7411
600.....7270
601.....7270, 9241
Proposed Rules:
2.....7620, 9382
42.....9885
44.....9274
513.....6297

29 CFR

860.....8448
1613.....10085
1952.....9162
2676.....7842
Proposed Rules:
103.....7450, 9382
1928.....7451
1952.....9185
2200.....9187

30 CFR

917.....7132
935.....6796
944.....7843
Proposed Rules:
15.....9670
75.....9670
202.....7622
206.....7622
256.....9672
280.....9758
774.....6827
785.....9640, 9644
823.....9644
906.....9887
913.....9402
917.....9890
935.....7176, 8082
938.....6828
942.....6827
944.....9891
946.....9892
948.....9314

31 CFR

545.....7273-7275, 7855

32 CFR

706.....6546, 7136, 8583
1602.....8889
1605.....8889
1621.....8889
1630.....8889
1633.....8889
1648.....8889
1656.....8889
2003.....10190
Proposed Rules:
199.....7453
231a.....6346
818a.....9499
1602.....8924
1605.....8924
1609.....8924
1618.....8924
1621.....8924
1624.....8924
1630.....8924
1633.....8924
1636.....8924
1639.....8924
1642.....8924
1648.....8924
1651.....8924
1653.....8924
1657.....8924
1698.....8924

33 CFR

100.....9162
110.....9828
117.....6972, 9163
147.....9656
151.....7744
158.....7744
161.....7856
165.....6142, 8584, 8892
183.....6973
Proposed Rules:
100.....6990, 7623-7624
110.....6347
117.....6991, 9673
165.....8622, 8623

34 CFR

338.....6142
653.....10006
761.....9440
Proposed Rules:
235.....8570
502.....7380
504.....7380
524.....7380
673.....6924

36 CFR

7.....7372
214.....10086
215.....10086

37 CFR

1.....9386
401.....8552
Proposed Rules:
1.....6696

38 CFR

17.....7575
21.....6547, 7276
36.....6547
Proposed Rules:
1.....8624
14.....8472

39 CFR

10.....6143
111.....6144
224.....7454
960.....6797
962.....7454
Proposed Rules:
10.....8627, 9756

40 CFR

52.....6145, 6324, 7862, 8070
60.....8585-8587, 9164, 9657, 9778
61.....8586-8589, 8724, 9164
65.....7863, 7864
81.....6548, 7865, 8448
131.....9102
180.....6325, 8452, 9492, 9493, 9756
260.....8072
265.....8704
270.....8072
271.....7412
716.....9662
763.....10187
Proposed Rules:
52.....6175, 7802, 8311, 8932, 9502, 9674, 9676
60.....7178, 8476
81.....7802
85.....9316
86.....9503
117.....8140
167.....9504
180.....6348, 8478, 9241
228.....9894
264.....8712
265.....8704, 8712
270.....8712
302.....8140, 8172
440.....9414
721.....9508

41 CFR

Ch. 61.....6674
50-201.....6146
101-6.....8893
101-40.....9382
101-47.....9829-9831
201-8.....10086
201-11.....10086
201-30.....10086
201-34.....10086
Proposed Rules:
50-201.....7892
101-38.....9448
201-38.....9900

42 CFR

37.....7866
57.....10194
121.....10094
122.....10094
123.....10094
405.....6148
413.....9833
417.....8898
418.....7412
Proposed Rules:
433.....6350
447.....6350

43 CFR

7.....9165
11.....9042
17.....6549
Public Land Orders:
6625 (Corrected by PLO 6640).....6557
6640.....6557

44 CFR

64.....6326, 10094
65.....8902, 8903
67.....8250, 8904
222.....6799
Proposed Rules:
65.....8933

67 8084

45 CFR

97 9494

Proposed Rules:

1204 9901
1207 8479
1208 8480

46 CFR

30 7765
98 7765
107 ..... 6974, 9383
109 ..... 6974, 9383
151 7765
153 7765
170 ..... 6974, 9383
172 7765
174 ..... 6974, 9383
221 6329
276 7462
502 6330

Proposed Rules:

160 6992
310 6829
503 ..... 8628, 9756

47 CFR

1 8259
2 ..... 6152, 7136, 7417, 8906
15 9296
19 7577
21 7136
31 6557
32 ..... 6557, 7579
43 8453
64 6557
69 8258
73 ..... 6152, 6154, 7148–7150, 7276, 7420, 7580, 8259, 8453, 8454, 8907, 9298, 9299
74 ..... 7136, 7420, 8259
78 7136
80 7417
90 6154
94 7136
97 7277

Proposed Rules:

Ch. I 8313
25 ..... 6175, 8937
73 ..... 6176, 7182–7185, 7282, 7624–7627, 8084–8086, 8314–8316, 8481, 8937, 9316
74 ..... 7627, 7895

48 CFR

1 8567
3 ..... 7062, 9989
7 9036
8 9036
9 9036
13 9036
15 9036
22 9036
31 9036
32 9036
44 9036
52 9036
53 9036
244 8908
PHS352 9300
507 8589
514 6562
515 6562
528 6564
533 6562
537 6562
552 ..... 6562, 8589
706 6158
715 6158
1537 8073
5316 6332

Proposed Rules:

32 8576
51 9436
52 ..... 8576, 9436
203 9187
209 9187
232 8481
242 6177
825 6993
5315 6590

49 CFR

1 9863
171 8590
173 ..... 7581, 8590
174 8590
175 8590
176 8590
177 8590
394 7277
533 6564
571 ..... 7150, 7867, 10096
1313 7278

Proposed Rules:

71 10119
171 ..... 6591, 9996
172 6591
173 ..... 6178, 6591
175 9996
176 6591
177 6591
178 6591
180 6591
192 9189
195 9189
219 7185
391 9192
571 ..... 8317, 8482, 9194, 9316, 10122
845 9678
1042 8631
1059 9201
1152 7628
1330 9513

50 CFR

17 ..... 6651, 7369, 7424
23 6160
258 7532
285 9170
301 7582
611 ..... 7868, 8592
646 9864
671 8319
672 ..... 7868, 9171, 9495
675 8592
681 9496

Proposed Rules:

17 7462
20 7900
216 7912
217 ..... 6179, 8087, 9318, 9902
222 ..... 6179, 8087, 9318, 9902
227 ..... 6179, 8087, 9318, 9902
640 8485
642 ..... 6357, 7463
646 9513
653 9902
658 7283
661 10125
671 6199

LIST OF PUBLIC LAWS

Last List March 27, 1987

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202–275–3030).

S.J. Res. 19/Pub. L. 100–15

To designate March 20, 1987 as "National Energy Education Day." (Mar. 25, 1987; 101 Stat. 129; 1 page). Price: $1.00

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $595.00 domestic, $148.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, CHOICE, or GPO Deposit Account) may be telephoned to the GPO order desk at **(202) 783-3238** from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	$9.00	Jan. 1, 1987
3 (1985 Compilation and Parts 100 and 101)	14.00	[1] Jan. 1, 1986
4	14.00	Jan. 1, 1987
5 Parts:		
1–1199	18.00	Jan. 1, 1986
1200–End, 6 (6 Reserved)	6.50	Jan. 1, 1986
7 Parts:		
0–45	24.00	Jan. 1, 1986
46–51	16.00	Jan. 1, 1986
52	18.00	Jan. 1, 1986
*53–209	18.00	Jan. 1, 1987
210–299	21.00	Jan. 1, 1986
*300–399	10.00	Jan. 1, 1987
400–699	19.00	Jan. 1, 1986
700–899	17.00	Jan. 1, 1986
900–999	20.00	Jan. 1, 1986
1000–1059	12.00	Jan. 1, 1986
1060–1119	13.00	Jan. 1, 1987
1120–1199	8.50	Jan. 1, 1986
1200–1499	13.00	Jan. 1, 1986
*1500–1899	9.50	Jan. 1, 1987
1900–1944	23.00	Jan. 1, 1986
1945–End	23.00	Jan. 1, 1986
8	9.50	Jan. 1, 1987
9 Parts:		
1–199	14.00	Jan. 1, 1986
200–End	14.00	Jan. 1, 1986
10 Parts:		
0–199	22.00	Jan. 1, 1986
200–399	13.00	Jan. 1, 1986
400–499	14.00	Jan. 1, 1987
500–End	23.00	Jan. 1, 1986
11	7.00	Jan. 1, 1986
12 Parts:		
1–199	11.00	Jan. 1, 1987
200–299	22.00	Jan. 1, 1986
300–499	13.00	Jan. 1, 1987
500–End	26.00	Jan. 1, 1986
13	19.00	Jan. 1, 1986
14 Parts:		
1–59	20.00	Jan. 1, 1986
60–139	19.00	Jan. 1, 1986
140–199	7.50	Jan. 1, 1986
200–1199	14.00	Jan. 1, 1986
1200–End	8.00	Jan. 1, 1986
15 Parts:		
0–299	10.00	Jan. 1, 1987
300–399	20.00	Jan. 1, 1986
400–End	14.00	Jan. 1, 1987

Title	Price	Revision Date
16 Parts:		
0–149	9.00	Jan. 1, 1986
150–999	10.00	Jan. 1, 1986
1000–End	19.00	Jan. 1, 1987
17 Parts:		
1–239	26.00	Apr. 1, 1986
240–End	19.00	Apr. 1, 1986
18 Parts:		
1–149	15.00	Apr. 1, 1986
150–399	25.00	Apr. 1, 1986
400–End	6.50	Apr. 1, 1986
19	29.00	Apr. 1, 1986
20 Parts:		
1–399	10.00	Apr. 1, 1986
400–499	22.00	Apr. 1, 1986
500–End	23.00	Apr. 1, 1986
21 Parts:		
1–99	12.00	Apr. 1, 1986
100–169	14.00	Apr. 1, 1986
170–199	16.00	Apr. 1, 1986
200–299	6.00	Apr. 1, 1986
300–499	25.00	Apr. 1, 1986
500–599	21.00	Apr. 1, 1986
600–799	7.50	Apr. 1, 1986
800–1299	13.00	Apr. 1, 1986
1300–End	6.50	Apr. 1, 1986
22	28.00	Apr. 1, 1986
23	17.00	Apr. 1, 1986
24 Parts:		
0–199	15.00	Apr. 1, 1986
200–499	24.00	Apr. 1, 1986
500–699	8.50	Apr. 1, 1986
700–1699	17.00	Apr. 1, 1986
1700–End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0–1.169	29.00	Apr. 1, 1986
§§ 1.170–1.300	16.00	Apr. 1, 1986
§§ 1.301–1.400	13.00	Apr. 1, 1986
§§ 1.401–1.500	20.00	Apr. 1, 1986
§§ 1.501–1.640	15.00	Apr. 1, 1986
§§ 1.641–1.850	16.00	Apr. 1, 1986
§§ 1.851–1.1200	29.00	Apr. 1, 1986
§§ 1.1201–End	29.00	Apr. 1, 1986
2–29	19.00	Apr. 1, 1986
30–39	13.00	Apr. 1, 1986
40–299	25.00	Apr. 1, 1986
300–499	14.00	Apr. 1, 1986
500–599	8.00	[2] Apr. 1, 1980
600–End	4.75	Apr. 1, 1986
27 Parts:		
1–199	20.00	Apr. 1, 1986
200–End	14.00	Apr. 1, 1986
28	21.00	July 1, 1986
29 Parts:		
0–99	16.00	July 1, 1986
100–499	7.00	July 1, 1986
500–899	24.00	July 1, 1986
900–1899	9.00	July 1, 1986
1900–1910	27.00	July 1, 1986
1911–1919	5.50	[3] July 1, 1984
1920–End	29.00	July 1, 1986
30 Parts:		
0–199	16.00	[4] July 1, 1985
200–699	8.50	July 1, 1986
700–End	17.00	July 1, 1986
31 Parts:		
0–199	11.00	July 1, 1986
200–End	16.00	July 1, 1986

Title	Price	Revision Date
32 Parts:		
1–39, Vol. I	15.00	[5] July 1, 1984
1–39, Vol. II	19.00	[5] July 1, 1984
1–39, Vol. III	18.00	[5] July 1, 1984
1–189	17.00	July 1, 1986
190–399	23.00	July 1, 1986
400–629	21.00	July 1, 1986
630–699	13.00	July 1, 1986
700–799	15.00	July 1, 1986
800–End	16.00	July 1, 1986
33 Parts:		
1–199	27.00	July 1, 1986
200–End	18.00	July 1, 1986
34 Parts:		
1–299	20.00	July 1, 1986
300–399	11.00	July 1, 1986
400–End	25.00	July 1, 1986
35	9.50	July 1, 1986
36 Parts:		
1–199	12.00	July 1, 1986
200–End	19.00	July 1, 1986
37	12.00	July 1, 1986
38 Parts:		
0–17	21.00	July 1, 1986
18–End	15.00	July 1, 1986
39	12.00	July 1, 1986
40 Parts:		
1–51	21.00	July 1, 1986
52	27.00	July 1, 1986
53–60	23.00	July 1, 1986
61–80	10.00	July 1, 1986
81–99	25.00	July 1, 1986
100–149	23.00	July 1, 1986
150–189	21.00	July 1, 1986
190–399	27.00	July 1, 1986
400–424	22.00	July 1, 1986
425–699	24.00	July 1, 1986
700–End	24.00	July 1, 1986
41 Chapters:		
1, 1–1 to 1–10	13.00	[6] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[6] July 1, 1984
3–6	14.00	[6] July 1, 1984
7	6.00	[6] July 1, 1984
8	4.50	[6] July 1, 1984
9	13.00	[6] July 1, 1984
10–17	9.50	[6] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[6] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[6] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[6] July 1, 1984
19–100	13.00	[6] July 1, 1984
1–100	9.50	July 1, 1986
101	23.00	July 1, 1986
102–200	12.00	July 1, 1986
201–End	7.50	July 1, 1986
42 Parts:		
1–60	15.00	Oct. 1, 1986
61–399	10.00	Oct. 1, 1986
400–429	20.00	Oct. 1, 1986
430–End	15.00	Oct. 1, 1986
43 Parts:		
1–999	14.00	Oct. 1, 1986
1000–3999	24.00	Oct. 1, 1986
4000–End	11.00	Oct. 1, 1986
44	17.00	Oct. 1, 1986
45 Parts:		
1–199	13.00	Oct. 1, 1986
200–499	9.00	Oct. 1, 1986
500–1199	18.00	Oct. 1, 1986
1200–End	13.00	Oct. 1, 1986
46 Parts:		
1–40	13.00	Oct. 1, 1986
41–69	13.00	Oct. 1, 1986
70–89	7.00	Oct. 1, 1986
90–139	11.00	Oct. 1, 1986
140–155	8.50	[7] Oct. 1, 1985
156–165	14.00	Oct. 1, 1986
166–199	13.00	Oct. 1, 1986
200–499	19.00	Oct. 1, 1986
500–End	9.50	Oct. 1, 1986
47 Parts:		
0–19	17.00	Oct. 1, 1986
20–39	18.00	Oct. 1, 1986
40–69	11.00	Oct. 1, 1986
70–79	17.00	Oct. 1, 1986
80–End	20.00	Oct. 1, 1986
48 Chapters:		
1 (Parts 1–51)	21.00	Oct. 1, 1986
1 (Parts 52–99)	16.00	Oct. 1, 1986
2	15.00	Oct. 1, 1985
3–6	17.00	Oct. 1, 1986
7–14	23.00	Oct. 1, 1986
15–End	22.00	Oct. 1, 1986
49 Parts:		
1–99	10.00	Oct. 1, 1986
100–177	24.00	Oct. 1, 1986
178–199	19.00	Oct. 1, 1986
200–399	17.00	Oct. 1, 1986
400–999	21.00	Oct. 1, 1986
1000–1199	17.00	Oct. 1, 1986
1200–End	17.00	Oct. 1, 1986
50 Parts:		
1–199	15.00	Oct. 1, 1986
200–End	25.00	Oct. 1, 1986
CFR Index and Findings Aids	27.00	Jan. 1, 1987
Complete 1987 CFR set	595.00	1987
Microfiche CFR Edition:		
Complete set (one-time mailing)	155.00	1983
Complete set (one-time mailing)	125.00	1984
Complete set (one-time mailing)	115.00	1985
Subscription (mailed as issued)	185.00	1986
Subscription (mailed as issued)	185.00	1987
Individual copies	3.75	1987

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.